

the Republic, Department of Pennsylvania, against the abolition of the pension agencies—to the Committee on Appropriations.

Also, petition of the National Board of Trade, held in Washington, D. C., for such amendments to the interstate-commerce act as will permit proper railway traffic agreements, such agreements to be inoperative if disapproved by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. WHARTON: Petition of the National German-American Alliance of the United States, against bill H. R. 13655 (the Littlefield bill)—to the Committee on the Judiciary.

## SENATE.

THURSDAY, February 7, 1907.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BURROWS, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

### FINDINGS BY THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Henry J. Brown, administrator of the estate of Elmyra Brown, deceased, et al. v. The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, returned to the Senate, in compliance with its request, the bill (H. R. 8080) for the relief of S. Kate Fisher, with the accompanying engrossed copy of the Senate amendment thereto.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 3393) granting an honorable discharge to Galen E. Green.

### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented sundry memorials of citizens of Moline, Ill., remonstrating against any intervention on the part of the United States Government in the affairs of the Kongo Free State; which were ordered to lie on the table.

He also presented a petition of sundry citizens of Rockford, Minn., praying for the enactment of legislation to permit the manufacture by consumers of denatured alcohol in small quantities; which was referred to the Committee on Finance.

He also presented a petition of the congregation of the Kingsley Methodist Episcopal Church, of New York City, N. Y., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Christian Temperance Unions of Broad Ripple, Gosport, Castleton, Hamilton, Hartford City, Barbersville, Fort Wayne, Goshen, Liberty, Hillsboro, Oakland, Marshall, Bluffton, Jonesboro, North Vernon, Markle, Nottingham, and Sheridan, all in the State of Indiana, praying for an investigation of the charges made and filed against Hon. REED SMOOR, a Senator from the State of Utah; which were ordered to lie on the table.

Mr. BURKETT presented the petition of A. P. Tilley, of Osceola, Nebr., praying for the passage of the so-called "Crum-packer bill," relating to postal fraud orders; which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Clay Center, Nebr., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. PERKINS presented a petition of the Merchants' Exchange of Oakland, Cal., praying for the enactment of legislation providing for the reclassification and increase in the salaries of postal clerks in all first and second class post-offices; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Fruit Growers' Association of Hanford, Cal., praying for a modification of the present Chinese-exclusion law, so as to permit the immigration of laborers irrespective of nationality; which was referred to the Committee on Immigration.

Mr. FLINT presented a petition of sundry citizens of Los Angeles, Cal., and a petition of the congregation of the Central Presbyterian Church, of Los Angeles, Cal., praying for the enactment of legislation to regulate the interstate transportation

of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Los Angeles, Cal., praying for the enactment of legislation providing for the removal of duty on works of art; which was referred to the Committee on Finance.

He also presented a petition of sundry citizens of Needles, Cal., praying for the enactment of legislation to protect that city against the encroachment of the Colorado River; which was referred to the Committee on Commerce.

Mr. MILLARD presented a petition of sundry citizens of Fremont, Nebr., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Falls City, Nebr., praying for the enactment of legislation to regulate the employment of child labor; which was ordered to lie on the table.

Mr. NELSON presented a memorial of the Press Association of Goodhue County, Minn., remonstrating against the enactment of legislation to exclude from the mails newspaper publications classed as second-class matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BLACKBURN presented a memorial of the Axton Fishers Tobacco Company, of Louisville, Ky., remonstrating against the passage of the so-called "free leaf tobacco bill;" which was referred to the Committee on Finance.

Mr. OVERMAN presented a memorial of Bailey Brothers, of Winston-Salem, N. C., and a memorial of the Ozburn Hill Company, of Winston-Salem, N. C., remonstrating against the passage of the so-called "free leaf tobacco bill;" which were referred to the Committee on Finance.

Mr. LATIMER presented a petition of the executive committee of the Interchurch Conference on Federation, of New York City, N. Y., praying for an investigation into the existing conditions in the Kongo Free State; which was ordered to lie on the table.

Mr. CLARKE of Arkansas presented petitions of sundry citizens of Heber, Magazine, Prescott, and Pechabontas, all in the State of Arkansas, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. PENROSE presented petitions of the congregation of the Church of Christ of Sayre, of the Christian Endeavor Society of Landsville, of the Woman's Christian Temperance Union of Reading, of sundry citizens of New Holland, of the congregations of the Methodist Episcopal and First United Presbyterian churches of Kittanning, of the Woman's Christian Temperance Union of Athens, of the congregation of the Methodist Episcopal Church of Athens, and of the Christian Woman's Board of Missions of the Church of Christ of Sayre, all in the State of Pennsylvania, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented sundry papers to accompany the bill (S. 7848) for the relief of the Corn Exchange National Bank, of Philadelphia, Pa.; which were referred to the Committee on Claims.

Mr. SCOTT presented a petition of the State Board of Agriculture, of Charleston, W. Va., praying for the enactment of legislation to prohibit newspaper publishers from sending their publications through the mails after their paid subscriptions have expired; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BEVERIDGE presented petitions of sundry citizens of Hoagland, Rush County, Hamilton, Elkhart, Brazil, South Union, Marion, Connersville, Amboy, Monroeville, Richmond, Auburn, Valparaiso, Markle, Hartford City, Bedford, Fountain City, Williamsburg, and Huntington, all in the State of Indiana, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented a petition of the executive committee of the Interchurch Conference on Federation of New York City, N. Y., praying for an investigation into the existing conditions in the Kongo Free State; which was ordered to lie on the table.

He also presented a memorial of sundry citizens of Goshen, Ind., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

He also presented a petition of Iron Molders' Union No. 56, of Indianapolis, Ind., praying for the enactment of legislation to regulate the employment of child labor; which was ordered to lie on the table.

He also presented a petition of the Central Labor Union of Lafayette, Ind., praying for the extension of the provisions of the Chinese-exclusion laws so as to include Japanese and Koreans; which was referred to the Committee on Immigration.

He also presented petitions of sundry Hebrew citizens of South Bend, Ind., the Hebrew Sick Benefit Society of South Bend, Ind., and the Alliance of German Societies of Indiana, praying for the enactment of legislation to further restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the Central Labor Union of Lafayette, Ind., praying for an investigation into the conditions of woman and child workers of the country; which was ordered to lie on the table.

Mr. KNOX presented petitions of M. P. Kennedy, of Pittsburgh; C. D. Walton, of North Wales; L. E. Walton, of Greensburg; W. H. Swoap, of Sackett; F. I. Dickert, of Pittsfield; H. W. Thayer, of Philadelphia; S. E. Miller, of Corry; H. A. Spangler, of Allegheny; Lillie C. Doty, of Youngsville; G. H. Daron, of Dover; H. E. Naegle, of Philadelphia, all in the State of Pennsylvania, and of the Gardner Nursery Company, of Osage, Iowa, praying for the passage of the so-called "Crum-packer bill" relating to postal fraud orders; which were referred to the Committee on the Judiciary.

He also presented memorials of Arthur Edwin Brown and Edwin G. Conklin, of Philadelphia, Pa., remonstrating against the enactment of legislation abolishing the Bureau of Biology in the Department of Agriculture; which were referred to the Committee on Agriculture and Forestry.

He also presented petitions of the directors of the Fayette City National Bank, of Fayette City; the Keystone National Bank, of Pittsburgh; the First National Bank of Allegheny, all in the State of Pennsylvania, praying for the enactment of legislation providing for the issue and redemption of national bank guaranteed credit notes; which were referred to the Committee on Finance.

He also presented petitions of the Civic Club, of Pittsburgh; B. M. Neill, of Philadelphia; E. M. List, of Philadelphia; W. W. Fiske, of Philadelphia; Consumers' League of Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation to regulate the employment of child labor; which were ordered to lie on the table.

He also presented petitions of J. F. McMullen, of Wilkesburg; C. W. Cantrell, of Pittsburgh; Edward Hull, of Pittsburgh; James Melvin, of Pittsburgh; E. V. Foster, of Pittsburgh; George W. Comfour, of Pittsburgh; H. C. Reese, of Pittsburgh; Rev. G. H. Flinn, of Pittsburgh; Frank Kronz, of Pittsburgh; J. S. Asbeck, of Pittsburgh; George F. McConnell, of Millvale, all in the State of Pennsylvania, praying for the enactment of legislation providing for an increase in the salaries of letter carriers and postal clerks; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Woman's Christian Temperance Union of Reading; St. Paul's Methodist Episcopal Church, of Lancaster; First United Presbyterian Church of Newcastle; sundry citizens of Carbondale; Presbyterian Church of Conneautville; First Baptist Church of Kittanning; the Religious Society of Friends, of Darby; trustees of Christ Methodist Episcopal Church, of Pittsburgh; Robert R. Fritsch, of Allentown, all in the State of Pennsylvania, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented memorials of Edwin M. Stanton Post, No. 208, Department of Pennsylvania, Grand Army of the Republic, of New Brighton; Lieutenant Ezra S. Griffin Post, No. 139, Department of Pennsylvania, Grand Army of the Republic, of Scranton; C. S. Davis Post, No. 148, Department of Pennsylvania, Grand Army of the Republic, of Selinsgrove; Colonel Gus. W. Town Post, No. 46, Department of Pennsylvania, Grand Army of the Republic, of Philadelphia; George Smith Post, No. 79, Department of Pennsylvania, Grand Army of the Republic, of Conshohocken; George G. Meade Post, No. 1, Department of Pennsylvania, Grand Army of the Republic, of Philadelphia; General Alex. Hays Post, No. 3, Department of Pennsylvania, Grand Army of the Republic, of Pittsburgh; Grand Army Association of Philadelphia and Vicinity, Philadelphia; M. A. Gherst, commander, Department of Pennsylvania, Grand Army of the Republic, of Reading, all in the State of Pennsylvania, remonstrating against the enactment of legislation abolishing pension agencies throughout the country; which were referred to the Committee on Pensions.

He also presented petitions of James S. Whitney, of Philadelphia; A. Booth, of Haverford; L. Booth, of Haverford; M. E. Booth, of Haverford; Everett Stuart, of Philadelphia; R. B.

Haines, jr., of Philadelphia; H. B. Gerhardt, of Harrisburg; S. J. Anderson, of Allegheny; Friends Intelligencer, of Philadelphia; John H. Converse, of Philadelphia; C. S. Albert, of Philadelphia; W. E. Shipley, of Philadelphia; Wayland Hoyt, of Philadelphia; John W. Cadbury, of Philadelphia; H. W. Cadbury, of Philadelphia; A. F. Anderson, of Harrisburg; Agnes Kemp, of Swarthmore; Eva J. Smith, of Warren; Rev. A. Kelly, of Erie; W. W. Bacon, of Philadelphia; W. A. Levering, of Germantown; W. C. Warren, of Germantown, Rev. H. B. Hartzler, of Harrisburg, all in the State of Pennsylvania, and of the executive committee, Inter-Church Conference on Federation, New York, N. Y., praying for an investigation into the existing conditions in the Kongo Free State; which were ordered to lie on the table.

Mr. LODGE presented a petition of the Preachers' Association of Boston, Mass., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union and the congregation of the John Nelson Memorial Church, of Leicester, Mass., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

Mr. CURTIS presented the petition of Arthur B. Schaeffer, of Kansas, praying for the enactment of legislation for the relief of Joseph V. Cunningham and other officers of the Philippine Volunteers; which was referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 20688) granting an increase of pension to Joseph M. Storey;

A bill (H. R. 20732) granting an increase of pension to Le Roy Benson;

A bill (H. R. 20738) granting a pension to Sarah A. Hawkes;

A bill (H. R. 20740) granting an increase of pension to Guthridge L. Phillips;

A bill (H. R. 20823) granting an increase of pension to William H. Webb;

A bill (H. R. 20858) granting an increase of pension to William C. Thompson;

A bill (H. R. 20953) granting an increase of pension to James D. Walker;

A bill (H. R. 20957) granting an increase of pension to William Chagnon;

A bill (H. R. 21121) granting an increase of pension to Marcus Wood;

A bill (H. R. 21133) granting an increase of pension to James W. Cosgrove;

A bill (H. R. 21022) granting an increase of pension to Thomas N. Gootee;

A bill (H. R. 21025) granting an increase of pension to Enoch May;

A bill (H. R. 21039) granting an increase of pension to Nelson J. Weller;

A bill (H. R. 21087) granting an increase of pension to Albert Manice;

A bill (H. R. 21097) granting an increase of pension to Henry W. Martin;

A bill (H. R. 21103) granting an increase of pension to Jacob Palmer;

A bill (H. R. 21111) granting an increase of pension to Arthur Graham;

A bill (H. R. 21115) granting an increase of pension to Sylvester Bickford;

A bill (H. R. 21118) granting an increase of pension to Jacob Hartman;

A bill (H. R. 21120) granting an increase of pension to John Lynch;

A bill (H. R. 21249) granting a pension to Minnie Scheele;

A bill (H. R. 21238) granting an increase of pension to John W. Gahan;

A bill (H. R. 21134) granting an increase of pension to Frederick Kriner;

A bill (H. R. 20687) granting an increase of pension to John M. Dixon;

A bill (H. R. 20684) granting an increase of pension to William M. Neal;

A bill (H. R. 20713) granting an increase of pension to Timothy Quinn; and

A bill (H. R. 21257) granting an increase of pension to Thomas Morris.

Mr. HANSBROUGH, from the Committee on Public Lands,

to whom was referred the bill (S. 7494) to provide for the disposal of timber on public lands chiefly valuable for timber, and for other purposes, reported it with amendments.

Mr. CLARK of Wyoming. I ask leave to file at a future day a minority report with the bill just reported from the Committee on Public Lands.

The VICE-PRESIDENT. Leave is granted.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (H. R. 24760) authorizing the construction of a dam across the Pend d'Oreille River, in the State of Washington, by the Pend d'Oreille Development Company, for the development of water power, electrical power, and for other purposes, reported it without amendment.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment, and submitted reports thereon:

A bill (H. R. 23686) granting an increase of pension to William H. Kehlbeck;

A bill (H. R. 23684) granting an increase of pension to Harry C. Cadwell;

A bill (H. R. 23683) granting an increase of pension to Thomas Phillips;

A bill (H. R. 23656) granting an increase of pension to John Kilpatrick;

A bill (H. R. 23653) granting an increase of pension to Dewitt C. Chapman;

A bill (H. R. 23652) granting an increase of pension to William H. Zimmerman;

A bill (H. R. 23651) granting an increase of pension to John W. Wilson;

A bill (H. R. 23645) granting an increase of pension to Isaac L. Griswold;

A bill (H. R. 23644) granting an increase of pension to Charles J. Schreiner;

A bill (H. R. 23624) granting an increase of pension to Albina M. Williams;

A bill (H. R. 23622) granting an increase of pension to Benjamin Maple;

A bill (H. R. 23608) granting an increase of pension to John Manley;

A bill (H. R. 23599) granting an increase of pension to Alfred B. Stansil;

A bill (H. R. 23593) granting an increase of pension to Charles M. Buck;

A bill (H. R. 23550) granting an increase of pension to Elizabeth C. Smith;

A bill (H. R. 23549) granting an increase of pension to Isaiah Carter;

A bill (H. R. 23528) granting an increase of pension to John M. Smith;

A bill (H. R. 23527) granting an increase of pension to Joseph E. Knighten;

A bill (H. R. 23526) granting an increase of pension to Stephen D. Jordan;

A bill (H. R. 23522) granting an increase of pension to George W. Shacklett;

A bill (H. R. 23495) granting an increase of pension to Adam Sliger;

A bill (H. R. 23481) granting an increase of pension to John G. Price;

A bill (H. R. 23477) granting an increase of pension to Caroline Vick;

A bill (H. R. 23475) granting an increase of pension to Thomas J. Green;

A bill (H. R. 23468) granting an increase of pension to Martin Becker;

A bill (H. R. 23458) granting an increase of pension to Edgar D. Ellis;

A bill (H. R. 23423) granting an increase of pension to Elbridge Simpson;

A bill (H. R. 23371) granting an increase of pension to Clark Crecelius;

A bill (H. R. 23365) granting an increase of pension to William Seitz; and

A bill (H. R. 23357) granting an increase of pension to James M. Houston.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 20107) granting an increase of pension to William A. Brown;

A bill (H. R. 24017) granting an increase of pension to Timothy Hanlon;

A bill (H. R. 23984) granting an increase of pension to Jacob Miller;

A bill (H. R. 23981) granting an increase of pension to Sarah Elizabeth Fuller;

A bill (H. R. 23973) granting an increase of pension to Henry Looer Reger;

A bill (H. R. 23969) granting an increase of pension to William Morson;

A bill (H. R. 23958) granting an increase of pension to Thomas W. Parsons;

A bill (H. R. 23957) granting an increase of pension to John Heinrichs;

A bill (H. R. 23915) granting a pension to William Stegal;

A bill (H. R. 23899) granting an increase of pension to James P. Hanna;

A bill (H. R. 19650) granting an increase of pension to Alexander W. Taylor;

A bill (H. R. 20615) granting an increase of pension to Julia T. Baldwin;

A bill (H. R. 22853) granting an increase of pension to Burden H. Barrett; and

A bill (H. R. 21294) granting an increase of pension to Lissie D. Allen.

Mr. CARMACK, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 23339) granting an increase of pension to Martha L. Burnham;

A bill (H. R. 16389) granting a pension to Jefferson Wilcox;

A bill (H. R. 23281) granting an increase of pension to William T. Fisher;

A bill (H. R. 23279) granting an increase of pension to David H. Moore;

A bill (H. R. 23278) granting an increase of pension to James M. Morris;

A bill (H. R. 23265) granting an increase of pension to Henry Helton;

A bill (H. R. 23250) granting a pension to Georgie A. Mercer;

A bill (H. R. 23234) granting an increase of pension to James W. Walsh, alias James Powers;

A bill (H. R. 23195) granting an increase of pension to Aurora Garwood Ellis;

A bill (H. R. 23182) granting an increase of pension to Martha Ella Wrenn;

A bill (H. R. 22842) granting an increase of pension to William C. Hodges;

A bill (H. R. 22838) granting an increase of pension to W. Ira Templeton;

A bill (H. R. 22820) granting an increase of pension to George S. Schmutz;

A bill (H. R. 22772) granting an increase of pension to Mary S. Sanders;

A bill (H. R. 22764) granting an increase of pension to Samuel V. Carr;

A bill (H. R. 22762) granting an increase of pension to John M. Gilbert;

A bill (H. R. 22750) granting an increase of pension to William Jenkins;

A bill (H. R. 22747) granting a pension to Celestia E. Outlaw;

A bill (H. R. 22746) granting an increase of pension to Felix G. Cobb;

A bill (H. R. 22715) granting an increase of pension to Terrence Doyle;

A bill (H. R. 23327) granting an increase of pension to Paul Sheets;

A bill (H. R. 23299) granting an increase of pension to Henry Goodlander;

A bill (H. R. 23247) granting an increase of pension to George I. Stults;

A bill (H. R. 23241) granting an increase of pension to Mary Loomis;

A bill (H. R. 23197) granting an increase of pension to Agnes E. Brown;

A bill (H. R. 23187) granting a pension to Jennie E. Luckenbach;

A bill (H. R. 23153) granting an increase of pension to George Quien;

A bill (H. R. 23143) granting an increase of pension to John H. Robbins;

A bill (H. R. 23136) granting an increase of pension to Sylvanus Sloat;

A bill (H. R. 23121) granting an increase of pension to Frank Vroman;

A bill (H. R. 23096) granting an increase of pension to James L. Colding;

A bill (H. R. 23057) granting an increase of pension to James M. Davidson;

A bill (H. R. 22990) granting an increase of pension to Francis A. Lander;

A bill (H. R. 22985) granting an increase of pension to Henry Bauerlin;

A bill (H. R. 22978) granting an increase of pension to Thomas Adams;

A bill (H. R. 22951) granting an increase of pension to Alice E. Ragan;

A bill (H. R. 22929) granting an increase of pension to John O. McNabb;

A bill (H. R. 22927) granting an increase of pension to William A. Leach; and

A bill (H. R. 22846) granting an increase of pension to Martin Holmes, alias George Langin.

Mr. MALLORY, from the Committee on Commerce, to whom was referred the bill (S. 8075) to provide for the construction and equipment of a revenue cutter, with headquarters at New Orleans, La., reported it without amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 3720) granting an increase of pension to Joseph McNulty;

A bill (H. R. 13706) granting an increase of pension to Albert C. Roach;

A bill (H. R. 8816) granting a pension to Mary Schoske;

A bill (H. R. 22022) granting an increase of pension to Josiah H. Shaver;

A bill (H. R. 22036) granting a pension to Emma A. Hawkes;

A bill (H. R. 23877) granting an increase of pension to Mary A. Edwards;

A bill (H. R. 23874) granting an increase of pension to William R. Horn;

A bill (H. R. 23872) granting an increase of pension to Charles Blacker;

A bill (H. R. 23858) granting an increase of pension to Hugh M. Cox;

A bill (H. R. 23846) granting an increase of pension to Sarah Ann Kendig;

A bill (H. R. 23845) granting an increase of pension to George W. Cassle;

A bill (H. R. 23812) granting an increase of pension to Joseph Dewhurst;

A bill (H. R. 23811) granting an increase of pension to Theron Cross;

A bill (H. R. 23810) granting an increase of pension to Ira J. Everson;

A bill (H. R. 23805) granting an increase of pension to Thomas Hamilton;

A bill (H. R. 23804) granting an increase of pension to Phoebe E. Sparkman;

A bill (H. R. 23803) granting an increase of pension to David C. Jones;

A bill (H. R. 23795) granting an increase of pension to Patrick McMahon;

A bill (H. R. 23792) granting an increase of pension to Zeurial McCulloch;

A bill (H. R. 23783) granting an increase of pension to George W. Buzzell;

A bill (H. R. 23781) granting an increase of pension to Honora Higgins;

A bill (H. R. 23778) granting an increase of pension to Henry Clapper;

A bill (H. R. 23777) granting an increase of pension to James Marshall;

A bill (H. R. 23774) granting an increase of pension to James Kelley;

A bill (H. R. 23772) granting an increase of pension to Temperance Davis;

A bill (H. R. 23770) granting an increase of pension to Henry D. Combs;

A bill (H. R. 23764) granting an increase of pension to Joseph C. Fisher;

A bill (H. R. 23762) granting an increase of pension to Adelaide Wagner;

A bill (H. R. 23739) granting an increase of pension to Elizabeth Pillow;

A bill (H. R. 23705) granting an increase of pension to Frederick P. Gaudineer;

A bill (H. R. 23703) granting an increase of pension to Clarendon Kelly;

A bill (H. R. 23699) granting an increase of pension to Joseph Countryman; and

A bill (H. R. 23687) granting a pension to Blanche C. Polk.

Mr. PERKINS, from the Committee on Commerce, to whom was referred the bill (S. 8170) amending an act to create a customs district of the Territory of Arizona, approved April 29, 1890, reported it with an amendment, and submitted a report thereon.

Mr. SMOOT, from the Committee on Claims, to whom was referred the bill (S. 1217) for the relief of the estate of Henry Ware, deceased, reported it without amendment, and submitted a report thereon.

Mr. HEYBURN, from the Committee on Manufactures, to whom was referred the bill (S. 4633) authorizing Government assistance in the development and encouragement of ramie fiber, silk, and flax preparation and manufacture and their production and profitable home market in the United States, under the supervision of the Secretary of Commerce and Labor, reported it without amendment, and submitted a report thereon.

#### ST. JOHN'S (FLA.) LIGHT AND POWER COMPANY.

Mr. TALIAFERRO. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 8128) granting to the St. John's Light and Power Company a right of way for street railroad purposes through the United States military reservation of Fort Marion, in St. Augustine, Fla., and through other Government property in said city, to report it favorably with amendments, and I submit a report thereon. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment was, at the end of section 2, to insert:

And if said company shall fail or refuse to remove its tracks, poles, wires, and other structures and appurtenances from the reservation within said period of sixty days after notification so to do, then, and in that event, the Secretary of War may cause the same to be removed at the expense of the said company and without liability to damages therefor.

The amendment was agreed to.

The next amendment was, to insert as an additional section the following:

Sec. 3. That said company shall pay such reasonable annual rental for such right of way, and at such time as may be fixed by the Secretary of War.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### TRANSFER OF SCHOOL FUNDS TO SOUTH CAROLINA.

Mr. ALLISON. I am directed by the Committee on Appropriations, to whom was referred the bill (S. 8065) to provide for the transfer to the State of South Carolina of certain school funds for the use of free schools in the parishes of St. Helena and St. Luke, in said State, to report it favorably with an amendment.

Mr. TILLMAN. It is a matter of some importance that the bill should be passed immediately, and I ask unanimous consent for its consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was, on page 2, line 4, after the words "South Carolina," to strike out the remainder of the bill in the following words:

The interest on which is applied to the support of said schools, shall, on the 1st day of July, 1907, be paid over to the State of South Carolina, which State shall set apart said sum as a separate interest-bearing trust fund and administer the same in such manner as it may elect for the benefit of free public schools in the parishes of St. Helena and St. Luke, in said State, as provided in the act of Congress approved March 3, 1873.

And in lieu thereof to insert:

In trust for the purposes of carrying out the provisions of an act entitled "An act to amend an act entitled 'An act to provide for the redemption and sale of lands held by the United States under the several acts levying direct taxes, and for other purposes,' approved March 3, 1873, and the said sum of \$50,490 is hereby appropriated to carry out the provisions of this act."

So as to make the bill read:

Be it enacted, etc., That the sum of \$50,450, heretofore invested in United States registered 4 per cent bonds of the funded loan of 1907, and the sum of \$40, invested in United States registered 3 per cent bonds of the loan of 1908 to 1918, an aggregate of \$50,490, invested by the Secretary of the Treasury under the provisions of the act of Congress of March 3, 1873 (17 Stat., p. 600), as a fund for the use and support of free public schools in the parishes of St. Helena and St. Luke, S. C., in trust for the purpose of carrying out, etc.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### COLUMBIA VALLEY (WASHINGTON) RAILROAD COMPANY.

Mr. WARREN. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 6691) granting to the Columbia Valley Railroad Company a right of way through Fort Columbia Military Reservation, at Scarborough Head, in the State of Washington, and through the United States quarantine station in section 17, township 9 north, range 9 west of Willamette meridian, in said State of Washington, and for other purposes, to report it favorably, with an amendment in the nature of a substitute, and I submit a report thereon.

Mr. FULTON. I ask unanimous consent for the present consideration of the bill just reported.

The Secretary read the proposed substitute; and there being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was to strike out all after the enacting clause and to insert:

That the Secretary of War may authorize the Columbia Valley Railroad Company to build a railroad and telegraph line through the Military Reservation at Scarborough Head, known as Fort Columbia, Wash., and to that end may set aside for occupancy by said Columbia Valley Railroad Company such ground, and no more, as is actually required for the track, embankment, trestle, and necessary buildings: *Provided*, That the ground so occupied shall remain the property of the United States under such police and other military control as the military authorities may deem it necessary to exercise: *Provided further*, That the location and grade of said railroad, the design and location of the station house and other buildings, and all other details of construction within the limits of the reservation, also all matters pertaining to the operation and maintenance of said railroad shall be under such regulations as the Secretary of War may from time to time establish: *Provided further*, That nothing in this act shall be construed as authorizing the use of any portion of the reservation as a borrow pit for fills and embankments: *Provided further*, That the said railroad company shall pay such reasonable annual rental for such right of way as may be fixed by the Secretary of War.

Sec. 2. That the Secretary of the Treasury may authorize the said Columbia Valley Railroad Company to build a railroad and telegraph line through the United States quarantine station grounds in section 17, township 9 north, range 9 west of the Willamette meridian, in the State of Washington, and to that end may set aside for occupancy by said Columbia Valley Railroad Company such ground, and no more, as is actually required for the track, embankment, trestle, and necessary buildings: *Provided*, That the location and grade of said railroad and all other details of construction within the limits of said quarantine station, and also all matters pertaining to the operation and maintenance of said railroad shall be under such regulations as the Secretary of the Treasury may from time to time establish: *And provided further*, That nothing in this act shall be construed as authorizing the use of any portion of the reserve as a borrow pit for fills and embankments: *And provided further*, That the said railroad company shall pay such reasonable annual rental for such right of way as may be fixed by the Secretary of the Treasury.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### LEAVES OF ABSENCE TO ENTRYMEN.

Mr. HANSBROUGH. I am authorized by the Committee on Public Lands, to whom was referred the bill (S. 8277) providing for stated leaves of absence to entrymen under the homestead laws, to report it favorably with amendments, and I ask for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments were on page 1, line 5, after the word "hereafter" to insert the word "actually," and after the word "Provided," in line 7, to strike out the remainder of the bill and insert:

That nothing in this act shall be so construed as to relieve homestead entrymen of the duty of residence during the months not herein named: *Provided further*, That in commutation homestead proofs no credit for the period of actual absence under this act shall be allowed.

So as to make the bill read:

*Be it enacted, etc.*, That no homestead entry shall be canceled and no final proof shall be rejected because of any failure of the entryman named therein to hereafter actually reside upon the lands covered by his entry during the months of December, January, February, and March, or any portion of such months: *Provided*, That nothing in this act shall be so construed, etc.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### CUSTOMS COLLECTION DISTRICT OF PUGET SOUND.

Mr. BURROWS. I am directed by the Committee on Finance, to whom was referred the bill (S. 7502) providing for the appointment of an appraiser of merchandise for the customs collection district of Puget Sound, State of Washington, to report it favorably with an amendment. I ask for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was, in line 6, before the word "thousand," to strike out "four" and insert "three;" so as to make the bill read:

*Be it enacted, etc.*, That there shall be in the customs collection district of Puget Sound, State of Washington, an appraiser of merchandise, to be appointed by the President, and by and with the consent of the Senate, and with compensation at the rate of \$3,000 per annum.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### LIGHT-SHIP FOR NARRAGANSETT BAY, RHODE ISLAND.

Mr. HOPKINS. I am directed by the Committee on Commerce, to whom was referred the bill (S. 8186) to construct and place a light-ship at or near Ohio Shoal, Narragansett Bay, Rhode Island, to report it favorably without amendment, and I submit a report thereon. I ask for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### SNAKE RIVER DAM, WASHINGTON.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 24928) authorizing the construction of a dam across the Snake River, in the State of Washington, by the Benton Water Company, to report it favorably without amendment, and I submit a report thereon. I ask for the present consideration of the bill.

The Secretary read the bill.

Mr. HEYBURN. I desire to inquire of the Senator from Washington at what point in the river it is proposed to construct the dam?

Mr. PILES. It is a House bill, and it is accompanied by the report of the House committee. The report shows at what point in the river the dam is to be constructed.

Mr. HEYBURN. The bill came from the committee this morning. The construction of dams across navigable rivers is sometimes a matter of considerable local importance.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. HEYBURN. I think the bill had better go over until I can examine the report and see where the dam is to be constructed.

Mr. PILES. I have no objection to its going over for the present.

The VICE-PRESIDENT. The bill will go over.

Mr. HEYBURN subsequently said: I withdraw the objection which I interposed to the present consideration of House bill 24928.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. HEYBURN subsequently said: I desire to enter a motion to reconsider the vote by which the bill (H. R. 24928) authorizing the construction of a dam across the Snake River, in the State of Washington, by the Benton Water Company, was passed.

The VICE-PRESIDENT. The motion to reconsider will be entered.

Mr. HEYBURN. I move that the House be requested to return the bill to the Senate.

The motion was agreed to.

#### CHARLES E. DANNER & CO.

Mr. DANIEL. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. 8685) for the relief of Charles E. Danner & Co., to report it favorably without amendment, and I submit a report thereon. The bill carries an appropriation of \$240. It remits a penalty under the recommendation

of the Commissioner of Internal Revenue. I ask leave for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to Charles E. Danner, John N. Wallace, and W. Porter Danner, copartners trading under the name of Charles E. Danner & Co., \$240, the amount paid by them for a wholesale dealer's license for the sale of oleomargarine, and the penalty thereon.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### REVISION OF COPYRIGHT ACTS.

Mr. MALLORY. On behalf of the minority of the Committee of Patents, I submit in writing the views of that minority in opposition to certain features of the bill (S. 8190) to consolidate and revise the acts respecting copyrights, and I ask that the views of the minority be printed.

The VICE-PRESIDENT. It is so ordered.

S. W. PEEL.

Mr. CLAPP. I am directed by the Committee on Indian Affairs, to whom was referred the bill (H. R. 19930) referring the claim of S. W. Peel for legal services rendered the Choctaw Nation of Indians to the Court of Claims for adjudication, to report it favorably without amendment, and I submit a report thereon.

Mr. CLARKE of Arkansas. I ask unanimous consent for the present consideration of the bill.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

Mr. SPOONER rose.

Mr. ALDRICH. I think the bill had better not be considered at this time.

The VICE-PRESIDENT. Under objection, the bill will go to the Calendar.

Mr. CLARKE of Arkansas. Let me inquire if that rule is to be applied to all bills or if it is to be applied simply to this one?

Mr. SPOONER. I rose not for the purpose of objecting to the bill, but for the purpose of inquiring of the Senator what rate of interest the bill carries.

Mr. CLARKE of Arkansas. The rate of interest mentioned in the bill. If it is not mentioned, it will not carry any interest.

Mr. SPOONER. If it is not mentioned?

Mr. CLARKE of Arkansas. Then it will carry none.

Mr. SPOONER. The bill requires the payment of interest.

Mr. CLARKE of Arkansas. Let the Secretary read that particular provision of the bill, so that we may know about it.

The VICE-PRESIDENT. The Secretary, without objection, will read the provision, at the request of the Senator from Arkansas.

The Secretary read as follows:

And in case the said court finds any sum or amount due the claimant for his services and disbursements as aforesaid, it shall thereupon direct the same to be paid with interest from the funds of said nation now in the Treasury of the United States.

Mr. CLARKE of Arkansas. If there is no interest found due, of course it will render that part nugatory.

Mr. SPOONER. I suppose the Senator would not fix the rate in the bill?

Mr. CLARKE of Arkansas. No; I do not care anything about it.

Mr. SPOONER. Then that clause ought to be stricken out.

Mr. CLARKE of Arkansas. There is no objection to that.

The VICE-PRESIDENT. The bill goes to the Calendar.

Mr. CLARKE of Arkansas. I wish to inquire of the Senator from Rhode Island if that rule is to be applied to all bills or to this particular bill? Does the objection arise from some provision of this bill or is it to be the rule not to consider any bills under unanimous consent from now on?

Mr. ALDRICH. I never heard of the bill until it was read at the desk. It seems to be a bill to provide for sending a case to the Court of Claims in which the United States is not a party and apparently has no interest except perhaps in some kind of relation which it may have toward the Indian tribe. It provides also for the payment of interest on a claim. I do not know anything about the amount. It has never been customary for the United States, when the Government has any interest in the matter or any control over it, to pay interest on claims.

Mr. CLARKE of Arkansas. That matter can be satisfactorily arranged.

Mr. ALDRICH. I do not know anything about the amount involved. It seems to me that it is too important a bill to be disposed of in this way. Therefore I interposed an objection,

which I presume I had a right to do, and it had no reference to any other bill.

Mr. CLARKE of Arkansas. I suppose the Senator overlooked the fact that the matter has been considered by the Committee on Indian Affairs and favorably reported by that committee.

Mr. ALDRICH. I did not. I understood that it was reported from that committee.

The VICE-PRESIDENT. The Chair will remind Senators that the debate is proceeding entirely by unanimous consent. The bill goes to the Calendar.

#### IMMIGRATION STATION AT GALVESTON, TEX.

Mr. CULBERSON. On the 5th instant I introduced a bill (S. 8327) to provide for the establishment of an immigration station at Galveston, in the State of Texas, and the erection in said city, on a site to be selected for said station, of a public building, and asked its reference to the Committee on Immigration. In some way the bill was referred to the Committee on Public Buildings and Grounds instead, and improperly referred. I move that that committee be discharged from the further consideration of the bill and that it be referred to the Committee on Immigration.

The VICE-PRESIDENT. Without objection, it is so ordered.

#### BILLS INTRODUCED.

Mr. ALDRICH introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8347) granting an increase of pension to Ervin F. Mann;

A bill (S. 8348) granting an increase of pension to Cornelius E. Bliss; and

A bill (S. 8349) granting a pension to Mary Ellen Van Amringe.

Mr. BLACKBURN introduced a bill (S. 8350) for the relief of the legal representatives of John Hoey, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. PENROSE introduced a bill (S. 8351) to correct the military record of Christian Heinze; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 8352) granting a pension to Thomas J. Parker (with accompanying papers);

A bill (S. 8353) granting an increase of pension to R. M. Musser;

A bill (S. 8354) granting an increase of pension to Joseph N. Croak, alias Joseph N. Croke (with accompanying papers);

A bill (S. 8355) granting an increase of pension to William Martin (with accompanying papers);

A bill (S. 8356) granting an increase of pension to Peter Grace; and

A bill (S. 8357) granting a pension to Pamela Roberts.

Mr. PENROSE introduced a bill (S. 8358) for the relief of parties from whom cigars were seized on account of bearing counterfeit stamps; which was read twice by its title, and referred to the Committee on Claims.

Mr. ANKENY introduced a bill (S. 8359) extending the time for making final proof in certain desert-land entries; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Public Lands.

Mr. GAMBLE introduced a bill (S. 8360) granting an increase of pension to John C. Roth; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SMOOT introduced a bill (S. 8361) granting an increase of pension to Clarrissa Whitney; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 8362) to authorize the city council of Salt Lake City, Utah, to construct and maintain a boulevard through the military reservation of Fort Douglas, Utah; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. MCENERY introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 8363) for the relief of Lizzie Dickson, administratrix of Archibald D. Palmer, deceased; and

A bill (S. 8364) for the relief of the estate of Edward Gaudin (with an accompanying paper).

Mr. NEWLANDS introduced a bill (S. 8365) authorizing the Secretary of the Interior to cancel certain Indian allotments and substitute therefor smaller allotments of irrigable land, and

providing for compensatory payments to the irrigation fund on lands so allotted within the Truckee-Carson irrigation project; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CLARKE of Arkansas introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 8366) for the relief of the Mount Pleasant Masonic Lodge, No. 99, of Austin, Lonoke County, Ark.; and

A bill (S. 8367) for the relief of the estate of William H. Lindsay, deceased.

Mr. WHYTE introduced a bill (S. 8368) to amend an act to authorize the Baltimore and Washington Transit Company, of Maryland, to enter the District of Columbia, approved June 8, 1896; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BURROWS introduced a bill (S. 8369) granting an increase of pension to Simeon F. Dickinson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. TALIAFERRO introduced a bill (S. 8370) granting an increase of pension to Elizabeth Sweat; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 8371) granting an increase of pension to Rose L. Gibbon; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HALE introduced a bill (S. 8372) granting an increase of pension to Elizabeth G. Ilesley; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CURTIS introduced a bill (S. 8373) granting an increase of pension to Robert McVay; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

#### CLAIMS UNDER THE NAVY DEPARTMENT.

Mr. PENROSE submitted two amendments intended to be proposed by him to the bill (H. R. 13605) to satisfy certain claims against the Government arising under the Navy Department; which were referred to the Committee on Naval Affairs, and ordered to be printed.

#### AMENDMENT TO OMNIBUS CLAIMS BILL.

Mr. PENROSE submitted an amendment intended to be proposed by him to the omnibus claims bill; which was referred to the Committee on Claims, and ordered to be printed.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. MALLORY submitted two amendments intended to be proposed by him to the river and harbor appropriation bill; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. SIMMONS submitted an amendment intended to be proposed by him to the river and harbor appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. BURROWS submitted an amendment proposing to appropriate \$3,500 to enable the Commissioners of the District of Columbia to employ special counsel to enforce, by proceedings in the proper courts, the lien of the District of Columbia for unpaid taxes etc., intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. DICK submitted an amendment proposing to appropriate \$195,260.43 to pay amounts found due the several States for expenses incurred and paid by them under the act of July 27, 1861, etc., intended to be proposed by him to the general deficiency appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. LODGE submitted two amendments intended to be proposed by him to the river and harbor appropriation bill; which were referred to the Committee on Commerce, and ordered to be printed.

#### ADMINISTRATOR OF EPHRAIM PERKINS.

Mr. LODGE submitted the following resolution; which was referred to the Committee on Claims:

*Resolved*, That the bill (S. 7986) entitled "A bill authorizing the payment to the administrator of the late Ephraim Perkins, captain, of the value of his three-fourths of brigantine Eliza and cargo, illegally captured by the French, as ascertained by the Court of Claims," now pending in the Senate, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887; and the said court shall proceed with the same in accordance with the provisions of such act and report to the Senate their findings of fact and law.

#### CHARLES S. HANKS.

Mr. TILLMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Attorney-General and the Secretary of Commerce and Labor are hereby severally directed to report whether Charles S. Hanks has at any time been paid from public funds for service in either of their Departments, and, if so, by whom he was employed and what sums have been paid to him and for what service; and they are also severally directed to send to the Senate copies of any reports he may have made with reference to matters he may have been required to investigate.

#### PRINTING OF SERVICE PENSION LAW.

On motion of Mr. McCUMBER, it was

*Ordered*, That 10,000 copies of the "Act granting pensions to certain enlisted men, soldiers and officers, who served in the civil war and the war with Mexico," approved February 6, 1907, be printed in bill form and with good-sized black-faced type, for the use of the Senate document room.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. M. C. LATTA, one of his secretaries, announced that the President had approved and signed the following acts:

On February 6:

S. 976. An act granting pensions to certain enlisted men, soldiers, and officers who served in the civil war and the war with Mexico;

S. 4350. An act for the relief of Arthur A. Underwood;

S. 7099. An act granting an increase of pension to Esther A. Cleaveland; and

S. 7760. An act to authorize the Albany Railroad Bridge Company or the Chicago and Northwestern Railway Company to reconstruct a bridge across the Mississippi River.

#### JOHN M'KINNON, ALIAS JOHN MACK.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying bill, referred to the Committee on Military Affairs, and ordered to be printed:

To the Senate:

In compliance with the resolution of the Senate (the House of Representatives concurring) of the 5th instant, I return herewith Senate bill No. 1160, entitled "An act to correct the military record of John McKinnon, alias John Mack."

THE WHITE HOUSE, February 7, 1907.

THEODORE ROOSEVELT.

#### THE PHILIPPINE ISLANDS.

Mr. CLAPP. I move that the Senate proceed to the consideration of the Indian appropriation bill.

Mr. CLAY. I ask the Chair if it is not true that the resolution which I introduced yesterday, and which went over on objection, should come up this morning as part of the morning business?

The VICE-PRESIDENT. The Chair lays before the Senate the resolution submitted by the Senator from Georgia [Mr. CLAY] on a previous day, which will be read.

The Secretary read the resolution, submitted by Mr. CLAY on the 6th instant, as follows:

*Resolved*, That the Secretary of War be, and he is hereby, directed to send to the Senate the following:

A statement of the amount of money expended by the United States for equipment, supplies, and military operations in the Philippine Islands each year from July 1, 1902, to the present time. Said statement to include the amount of money paid by the United States for and on account of railway transportation for troops to and from the Philippine Islands since July 1, 1902, and the several railway companies to which it was paid and the sums paid each of them. Said statement to include a full and complete account of all our expenditures in the Philippine Islands since July 1, 1902, up to the present time.

The Secretary is also directed to inform the Senate the number of United States soldiers now stationed in the Philippine Islands, and how long, in his judgment, it will be necessary for the United States to maintain an army in the Philippine Islands, and what number of soldiers will be required to maintain law and order in said islands, and what will probably be our annual expenditures in maintaining such army in said islands.

He is also directed to inform the Senate what progress, if any, has been made by the people of the Philippine Islands in qualifying themselves for self-government.

Mr. LODGE. Let that resolution go over, Mr. President.

Mr. BURROWS. The resolution was offered yesterday and went over.

The VICE-PRESIDENT. The resolution went over yesterday.

Mr. LODGE. I did not know that when I made the request. Then I move that the resolution be referred to the Committee on the Philippines.

Mr. CLAY. Will the Senator withdraw his motion for a minute?

Mr. LODGE. Certainly.

Mr. CLAY. I call the Senator's attention to the fact that in the year 1902 a similar resolution was introduced and unanimously adopted by the Senate, and the information then asked for was sent to the Senate. Since 1902 no annual statement

appears, so far as the Senate knows, as to our expenditures in the Philippine Islands. I believe that Congress ought to know exactly what is going on in the Philippine Islands. We are informed that we are spending from forty to fifty million dollars a year, and we ought to know how much our Army and our Navy are costing us every year in the Philippine Islands. Congress ought to be informed as to all of our expenditures in those islands. It is extremely difficult, Mr. President, to ascertain how much our Army expenses have been increased by reason of the retention of those islands, and how much our naval expenditures have been increased on that account.

As I have said, there was no objection to the adoption of a similar resolution in 1902, and I feel sure that if this resolution shall go to the committee, in all probability we will not be able to get any action upon it during the present session of Congress.

Mr. LODGE. Mr. President—

Mr. CLAY. I sincerely hope that my friend the Senator from Massachusetts will allow this resolution to be adopted either to-day or to-morrow, or at some other early day in the future.

Mr. LODGE. Mr. President, all the expenditures about which the Senator speaks are published now. This resolution calls for merely additional work on the part of the Department, as I understand the resolution from hearing it read. I think everything is in print that can have any bearing upon the matter at all, and I think the resolution ought to be referred to the Committee on the Philippines before we agree to it. The committee should have an opportunity to look into the question and see whether there is any need of such an inquiry and whether the information can not be obtained in the document room, the reports having already been printed.

Mr. CLAY. Mr. President, I will say to the Senator that, in my opinion, this information ought to be forwarded to the Senate in tabulated form, in order that the Senate may have it printed as a document and in order that the country may know exactly what we are doing in the Philippine Islands, and what progress we are making in those islands in regard to the civilization of those people and preparing them for self-government.

Mr. LODGE. That information is reported in full every year by the Secretary of War.

Mr. CLAY. I understand that, Mr. President, but if you go over the report of the Secretary of War, involving many hundreds of pages, you will find it almost impossible to obtain the exact information in a form in which it can be sent to the country. If this information can be furnished to the Senate, itemized in short form and presented to the country, then the country will know exactly what we are doing in the Philippine Islands.

Mr. LODGE. Mr. President, the Philippine Commission reports fully and elaborately on everything in the islands, and that report is a public document before Congress for distribution—a report made annually. Nothing more can be added to it. All the information is in the report of the Philippine Commission and the report of the Secretary of War, and the expenses are all to be found stated in their proper places in those reports. Our expenditures and the expenditures made by the Philippine government are all returned in the reports, and every particle of this information is before us.

As to the general condition of the people there, a report is sent in every year by the Philippine Commission.

Mr. CLAY. Mr. President—

Mr. SPOONER rose.

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. CLAY. Certainly I yield to the Senator from Wisconsin.

Mr. SPOONER. I rose for the purpose of asking the Senator from Georgia to allow this resolution to go over until to-morrow.

Mr. CLAY. I am willing to do that; but I first want to say a word in reply to the Senator from Massachusetts [Mr. LODGE].

Mr. SPOONER. That might go over with it. If the Senator will permit me, I think there are one of two items of information called for by the resolution of the Senator which ought to be eliminated from it on two or three grounds. The general scope of the resolution, so far as I am concerned, I do not care anything about; but there are matters which ought not to be discussed here, and if the Senator will allow the resolution to go over until to-morrow I should think perhaps he might conclude to modify it in that regard.

Mr. CLAY. I have no objection to the resolution going over, but I should like it to go over without losing its place.

I want to say, in reply to the Senator from Massachusetts, that I am exceedingly anxious to ascertain how much of our naval expenditures can be chargeable to the Philippine Islands. We are spending \$100,000,000 a year for the purpose of main-

taining a navy; and I want to ascertain, if I can, how much of those expenses can be charged to the Philippine Islands.

Mr. ALDRICH. Mr. President—

Mr. CLAY. Just one moment. I believe last year we spent nearly \$100,000,000 for the purposes of war, and the Army appropriation bill of this year will carry about \$82,000,000. I want to ascertain, if I can, how much of this expenditure can be charged to the Philippine Islands. It is a very difficult task to find out exactly how much we are spending in the Philippines and how much more the Navy costs by reason of the retention of those islands. By critical examination of the report of the Philippine Commission it is impossible to secure the information which I desire. I am perfectly willing, however, that the resolution shall go over until to-morrow.

Now I yield with pleasure to the Senator from Rhode Island [Mr. ALDRICH].

Mr. ALDRICH. The Senator from Georgia says he wants to know how much more is the present cost of the Navy than it would be if we did not have the Philippine Islands. Who is to determine that? Whose opinion does the Senator from Georgia propose to ask on that subject—the opinion of the Secretary of War or that of the Philippine Commission, or whose?

Mr. CLAY. The Philippine Commission is really under the Secretary of War. I propose to ask the Secretary of War to give us an estimate of how much of the expenses of the War Department can be chargeable to the Philippine Islands.

Mr. ALDRICH. How about the expenditures of the Navy?

Mr. CLAY. That I propose to find out by another resolution asking the Secretary of the Navy to inform the Senate how much of the naval expenditures can be chargeable to the Philippine Islands. It is exceedingly important that the American people should know what is going on in our possession 8,000 miles away from us, how much money we are expending there, how much we may have to expend in the future, and the exact situation in those islands.

Mr. ALDRICH. The Senator from Georgia, of course, desires some accurate information upon this subject, and he is asking about a subject upon which accurate information can not be furnished by anybody. It is purely a matter of opinion. The Secretary of War can give no better information as to the increased cost of the Navy on account of the possession of the Philippines than can the Senator from Georgia himself, and his opinion would be worth no more to the American people than would the opinion of that distinguished Senator. The Senator could make a statement here on the floor that would have all the force and authority that any other man's opinion would have as to what would be the cost outside the actual expenditures for the Army in the Philippines and the cost of transportation. The discussion here shows very clearly that the resolution ought to be referred to some committee to be considered, in order that we may ask for positive and accurate information on subjects on which such information is obtainable, and not pass a resolution asking for the opinion of people on subjects on which they have no right to express an opinion.

Mr. CLAY. Mr. President, it is inconceivable to me that the Secretary of the Navy could not give a correct idea as to how much money we are spending on account of our Navy in the Philippine Islands, and I am sure that the Senator from Rhode Island is mistaken in his statement.

Mr. President, I have never known a resolution of this kind heretofore referred to any committee; and the Senator will find that a resolution exactly like this was heretofore introduced and unanimously adopted by this Senate, and the Senator from Rhode Island did not then object to it.

I do not desire to consume the time of the Senate this morning, for I know that time is precious to the Senate, and the Senator from Minnesota [Mr. CLAPP] is anxious that the Indian appropriation bill shall be proceeded with. I am willing, therefore, that the resolution shall go over until to-morrow morning.

The VICE-PRESIDENT. Without objection, the resolution will lie over.

#### STATE PUBLIC SCHOOL SYSTEMS.

Mr. FRAZIER. Mr. President, I had given notice that to-day immediately after the conclusion of the morning business I would address the Senate on Senate resolution 183. I realize, however, the wish of the Senator from Minnesota [Mr. CLAPP] in reference to the Indian appropriation bill and his desire to make progress with it. I am informed by that Senator that the bill will probably be concluded to-day. I therefore transfer my notice to to-morrow morning immediately after the conclusion of the morning business.

#### INDIAN APPROPRIATION BILL.

Mr. CLAPP. I move that the Senate proceed to the consideration of House bill 22580, making appropriations for the Indian Department, etc.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 22580) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1908.

Mr. STONE. Mr. President, I would not consume the very valuable time of the Senate now by further discussion of the pending amendment except for the fact that it is one of the important questions before the Senate. I do not say it is "the most important," for that would be an exaggeration; but it is a question of high moment, and I feel that as a minority member of the Committee on Indian Affairs I ought to say something regarding it.

The fundamental question here is, Whether the Congress has power to change the title under which allottees in the Indian Territory hold their land by imposing new or additional restrictions upon the right of alienation. In order to arrive at a correct conclusion as to that Senators ought to understand the exact status. They ought to be familiar with the legislation heretofore enacted affecting the relation of the United States to these tribes and the legislation under which they hold title to their lands.

By an act of Congress, indeed by several acts so far as these Indians are concerned, citizenship was conferred upon the people belonging to the Five Civilized Tribes—citizenship in all its amplitude and with all the rights, privileges, and immunities enjoyed by any and all citizens of the United States, and they are in the full enjoyment of those dignities, privileges, and prerogatives now. After this was done—this was in 1902—an agreement was entered into between the Indians of these tribes and the Government of the United States concerning the disposition of their lands. There had been previous agreements of recent date—in 1898, for instance—which had been ratified by the tribes and by Congress and which, by virtue of the action of Congress, had become laws of the United States. But all former agreements and laws were finally merged into the agreement of 1902.

Under the agreement or act of 1902 it was provided, among other things, that the Indians of these tribes should take their lands in severalty. For a long time they had been held as tribal or communal property. The Indians agreed to take the lands in severalty and have them allotted. A certain part of each allotment was to be set aside as a homestead; the remainder was to be what was designated as surplus land. Restrictions upon the right of alienating these lands, whether homesteads or surplus lands, were imposed by the terms of these agreements, which were afterwards passed into the form of law by the act of Congress. All homesteads were made inalienable during the life of allottees or for twenty-one years. As to the alienation of surplus lands, different restrictions were imposed on the lands of different tribes.

As to the Cherokees it was provided that they might alienate their surplus lands—lands outside of their homesteads—five years from the date of their allotments; the Creeks in five years from the approval of the agreement of 1902—that is, on June 30, 1902. The Seminoles by act of July 1, 1898, were authorized to receive their patents and convey their lands when their tribal government was dissolved, and it was provided that that tribal government should be dissolved March 4, 1906. The Choctaws and Chickasaws were authorized to sell one-fourth of their surplus lands in one year after the issuance of the patents, one-fourth in three years, and the remainder in five years after the same date.

Mr. President, these restrictions up to 1904 applied to all allottees, whites and freedmen, as well as to citizens of Indian blood. But by an act of Congress passed April 21, 1904, restrictions upon the alienation of allotments to white intermarried citizens and freedmen were removed, except as to their homesteads. In 1904 that privilege was granted the whites and the freedmen of the Territory. But no change was made respecting the restrictions resting on the allotments of Indian lands. So far as those restrictions were concerned, they remained as they were fixed by the act of 1902, under which the allotments were made.

It was further provided in the act of 1902 and in previous laws and agreements that the tribal governments and tribal relations existing in these several nations should be dissolved and that the Indians should be citizens of the United States. Their tribal governments have been, for all practical purposes, dissolved, substantially dissolved, in pursuance of the agreements made. If they exist at all it is only in a nominal sense. They are exercising no authority, no governmental function. If they exist at all, it is chiefly so by virtue of the resolution adopted by Congress last session continuing the tribal relations for the

sole purpose of preventing the Missouri, Kansas and Texas land grant becoming effective. They are practically dissolved.

So the matter stood up to 1906. On April 26, 1906, a provision was inserted in the act relating to the Five Civilized Tribes under which it was provided that restrictions on the alienation of any land belonging to Indians of full blood in the Indian Territory should be extended for a period of twenty-five years.

Mr. President, under this provision, if a valid law, all lands allotted to full-blood Indian citizens, whether homesteads or surplus lands, are made inalienable for twenty-five years. This, of course, is a radical change of the former law under which the allotments were made and received. In the Five Tribes there are somewhere between 18,000 and 24,000 full bloods, the exact number not being definitely known. There are in these tribes between 80,000 and 90,000 people of Indian blood all told, both mixed and full bloods, and of these about one-fourth are full bloods and three-fourths mixed bloods. So it follows that about one-fourth of the Indians and one-fourth of the land belonging to them are affected by this provision of the law of April 26, 1906.

Mr. President, at the time this provision was proposed I said that I did not believe that it was constitutional, and I still adhere to that view. While Congress might remove restrictions on the alienation of lands owned by these Indians, I did not believe and do not now believe that Congress could impose new or additional restrictions of this kind on property held and owned by these Indians in severalty and in fee, they being citizens of the United States, having all the privileges and immunities of other citizens by the very terms of the law. These Indians of the Five Tribes held their respective lands for many years in common as tribal or communal property. As I have already stated—

Mr. CLAPP. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. STONE. Certainly.

Mr. CLAPP. I suggest to the Senator from Missouri that he incorporate right here, for the sake of plainness, the additional statement that they held those lands absolutely in fee. Perhaps the Senator was going to do it.

Mr. STONE. I was about to make substantially that statement. They did have a very excellent title as tribes to this communal property, both as a matter of morals and good faith as well as a matter of law.

Take the Choctaws and Chickasaws for example. For long years these tribes held, occupied, and owned large areas of land east of the Mississippi River. They surrendered those lands to the Government of the United States and went over to what is now known as the Indian Territory, and there took possession of certain lands which the Government conveyed to them by a patent deed, or patent deeds, in exchange for the lands they surrendered in Mississippi and Tennessee. Under that deed and under the solemn compact and treaty which they made with our Government they were entitled to occupy and hold that territory as long as they existed as tribes. For seventy years, covering two generations, these Indians have lived on those lands, having and maintaining local tribal governments, with governors or head chiefs, with legislative assemblies and judicial bodies. They were engaged in numerous useful and profitable industries; for the most part, of course, in agriculture, and had churches, schools, and whatever betokens civilized communities.

Some ten years ago the Government adopted the policy of inducing the Indians of these Five Tribes to dissolve their tribal governments and tribal relations and to have their property partitioned and allotted to the members of the tribes in severalty. Conferences looking to this end were held between representatives of the Government and representatives of the several tribes, and agreements were reached under which these Indians consented to the proposal of the Government.

Under the very terms of those agreements, written in plain English and afterwards ratified by the Government and the tribes, so that the agreements were crystallized into the statute law of the nation, the lands were allotted in severalty. It was provided in the agreements and the law that the freedmen, former slaves of these Indians, and their descendants, should each be given 40 acres of land, and that the remainder of the land held by the several tribes should be allotted in equal parts to the members of the tribes respectively, men, women, and children; and it was provided that a certain amount of each allotment should be selected and designated as the homestead of the allottee, and that the remainder should be held as surplus lands.

The number of acres constituting a homestead differs in different tribes, that being regulated by the agreement made by each tribe with the Government. There was necessarily a difference in the acreage covered by the homesteads in the

different tribes, because of the fact that there was a large difference in the areas owned by the different tribes, and the number of persons in the several tribes also differed largely.

It was provided in the agreements and the law that the homestead of all allottees should be inalienable for a long period of time, I believe in every instance during the life of the allottee, with the exception in some cases that it should not extend beyond twenty-one years from the date of the patent; and restrictions upon the sale of the surplus lands were imposed for short periods, differing in the several tribes, as already shown. After the expiration of these periods the surplus lands were to be open for sale.

Under these agreements and laws lands have been allotted and large numbers of patents to allottees have been issued and delivered. All this work of allotting was practically completed long ago. The lands are held and occupied in severalty and in fee simple, subject only to the restrictions imposed by the law under which the allotments were made and the patents issued.

Mr. President, in this state of the case could the Congress step in and impose new or additional limitations upon the title of those people, or what is the same thing in effect, enlarge and extend the restrictions imposed at the beginning, and which were a part of the original agreement and law? I do not believe that that lies within the constitutional power of the Congress, or that the power to do any such thing is vested in this or any other legislative body under our form and theory of government.

I do not deny that the restrictions on alienation imposed at the time the Indians agreed to adopt the allotment policy of the Government, and which existed at the time the allotments were made, will run with the land. I do not deny that such restrictions are valid and enforceable. But to assert that after these agreements were made and enacted into law, and after the allotments were made to the Indians and rights and titles had become vested in the allottees, the Government could then deal with these Indians as if this were trust property, still held by the Government and over which the Government might still exercise a plenary power and control, so as to change the very title under which the allottees received their land, is to assert something I believe to be absolutely unsound. If we can extend restrictions on alienation from the very day the old restrictions ended to a further period of twenty-five years, then we could pass a law prohibiting alienation forever. I do not believe that any such law could be upheld. It would be a remarkable and dangerous rule to establish. Restrictions laid upon alienation at the time the selection of allotments was made may stand, but that is the end of it.

Mr. President, if a man enters a homestead on the public domain or preempts land, as might have been done under former laws, there were and are restrictions imposed by law upon his right to dispose of the homestead or preemption or whatever the claim may have been. There were certain things the homesteader or the preemptor was obliged to do, and there were certain limitations as to time. These had to be complied with before an alienable title was vested. Would it be maintained that after a citizen had taken a homestead or made a preemption Congress could divest him of his title by new legislation or impose additional restrictions upon the title so as to destroy or impair its value? The two cases are not wholly analogous, but the one does serve to illustrate the other.

These Indians are as much citizens of the United States as any homesteader on the public domain. They gave up and surrendered rights and privileges dear to them and valuable to them, and in pursuance of a solemn agreement made with the Government of the United States, which agreement was crystallized into a statute law of the United States, took their lands in severalty upon terms well understood, and subject to fixed limitations and restrictions. I can not agree to the proposition that the Government can now change the title by which these Indians hold their estates. I have read the Heff case, the Rickert case, the Lone Wolf case, and the others that have been cited, and I feel absolutely confident that there is nothing in any of those cases that will warrant or support the contention which is here made that these allotments are still so far under the jurisdiction of the United States that the Congress may deal with them as it pleases. The Senator from Kansas [Mr. Loxe] demonstrated that on yesterday in his discussion of these adjudicated cases. For the most part they are wholly inapplicable to the present consideration—

Mr. CLAPP. Will it disturb the Senator if I make a suggestion?

Mr. STONE. No.

Mr. CLAPP. I will ask the Senator if it is not a fact that the Lone Wolf case was the earliest case, and as far back as the Lone Wolf case the court expressly safeguarded against the sugges-

tion of interfering where the title had finally passed to an Indian individual?

Mr. STONE. That is true.

Mr. President, the Lone Wolf case and the others, for the most part I say, are inapplicable to this consideration, but so far as they are applicable without exception they tend to support the view that Congress can not extend the restrictions as was done by the act of 1906. Even the able Senator from North Dakota [Mr. McCUMBER], who is leading this fight on the other side as a matter of sentiment—a sentiment that does more credit to his heart, if I may say it, than to his judgment—concedes that much. If we can enlarge the original restrictions, now in some instances already expired, and prohibit the alienation of these lands forever, why could we not with equal right repeal the act of 1904, which removed restrictions on the lands of intermarried white citizens of the tribes, and impose restrictions on those lands at our pleasure?

The junior Senator from Kansas [Mr. CURTIS] said we could not do that because the Government by removing the restrictions on the lands of white citizens lost jurisdiction over them, but that it has not lost jurisdiction over the lands of Indian citizens because we acted and assumed to extend restrictions before those already existing had expired. There might be something more in this contention if it were true—

Mr. CURTIS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Kansas?

Mr. STONE. I do.

Mr. CURTIS. I am afraid the Senator from Missouri did not quote me correctly. I stated that we lost jurisdiction over the intermarried whites and freedmen, because when we removed the restrictions the removal applied immediately. As soon as the bill became a law the restrictions were removed. So far as the Indian is concerned, we did not remove the restrictions, but we held control of the land for five years, we will say, in the Cherokee and Creek nations. Now, my contention is that at any time within the five years we, being the guardian of the Indian, have the right to extend that period, if we think it to be for the best interest of the Indian, no outside rights having been attached.

Mr. STONE. The Senator from Kansas evidently did not follow me in what I said, for I said exactly what he has said, at least in substance.

Mr. CURTIS. Then I beg the Senator's pardon. I must have misunderstood him.

Mr. STONE. I was remarking when interrupted that there might be more in the contention made by the Senator from Kansas if it were true that the lands of these Indians were held by the Government in trust and that the relation of guardian and ward still existed. But that is not true. Most certainly the Government has no jurisdiction as a guardian over the person of these Indians any more than it has over the person of white citizens of the tribe. It can not control the movements of the Indian citizen any more than it can of the white citizen. After the allotments were made the Government did not hold the lands of Indians, whites, or freedmen in trust. On the contrary, a fee-simple title under the very terms of the law was vested in the allottees. If after this fee-simple title was vested in the allottees, and if within an hour before the expiration of the three or five year restriction on the right of alienation the Congress could so far change the title of these Indian citizens to their lands as to prohibit them from alienating it at all at any time in the future—and it could prohibit forever if it could for twenty-five years—it would seem to me that with equal right the Congress might reassert jurisdiction and control over the lands of the whites and the freedmen; and yet to attempt to do that would be admittedly absurd.

So, Mr. President, it seems perfectly clear to me that the Government holds no such interest in these lands, as trustee or otherwise, as gives to it the right to direct their disposition beyond the conditions and limitations imposed when the allotments were made and accepted.

But, Mr. President, after this question of law comes the question of policy. As the matter now stands, under the law of last year the title to all these Indian lands is clouded and the value of the lands thereby lessened, although sales are being constantly made.

If the provision of law known as the "McCumber amendment" is not a valid provision, if it will not stand the test of the courts, and if lands are being sold in spite of it under clouded titles and at depreciated valuations, every day it remains upon the statutes of the country it is a source of immeasurable detriment to the people it was intended to benefit.

Mr. President, it is said this law was intended to protect the improvident. No doubt it was so intended, and it may have

that effect to a limited extent. But while you are protecting the improvident you are doing harm to an equal or greater number who are just as much entitled to your consideration.

There are between 80,000 and 90,000 Indians belonging to these tribes in the Territory, and of these between 18,000 and 20,000 are full bloods. If it were possible to separate the incompetent from the competent, and if it were constitutionally permissible, it might be a wise and humane exercise of power to deny to those who are incompetent the right of alienating any part of their lands.

I am in sympathy with the wish and purpose of the Senator from North Dakota. It is a humane purpose, and it challenges the respect and sympathy of every man. The poor and ignorant, whether in the Indian Territory or elsewhere, appeal to us. This class is not confined to Indians or the Indian Territory. I venture to say, and I do not believe it will be denied, that relatively there are no more incompetent, ignorant people among the Indians of the Five Civilized Tribes than can be found in the Territory of New Mexico and in other States and Territories.

To protect these people against themselves, so that they may not become paupers and be sent adrift without a penny and without any employment, ignorant and helpless, the imposition of these restrictions is urged. It is all based on sentiment and conjecture. Why, Mr. President, these people could not become paupers. If this committee amendment should be adopted, and if under it they should sell all their surplus lands, they would still have their inalienable homesteads; and the homesteads represent at least one-half of their land possessions. With the proceeds of the sale of their surplus lands they could improve their homesteads and greatly improve their condition; but even if they wasted the surplus lands, they would still be far from paupers or from suffering. The homesteads would be secure to them for life.

Mr. McCUMBER. I think the Senator is in error when he states that in any number of these homesteads the restriction is only limited to the lifetime of the holder. I believe in every instance they do not run beyond twenty-one years, and those twenty-one years have already run to the extent of from one to five or six years.

Mr. STONE. In the Choctaw and Chickasaw nations the provision is that the homestead shall not be sold during the lifetime of the allottee or homesteader, not to exceed twenty-one years.

Mr. SPOONER. That makes the limit twenty-one years.

Mr. STONE. It does make it twenty-one years.

Mr. SPOONER. If he lives.

Mr. STONE. Twenty-one years if he lives.

Mr. SPOONER. If he dies, it is shorter.

Mr. STONE. But with the other tribes my remembrance is that the homestead is for life. I may be mistaken, but I think not. But a homestead for twenty-one years, with from sixteen to twenty years still remaining, ought certainly to be enough to give assurance that there is no danger of that want and suffering my friend from North Dakota seems to dread so much.

Now, the area of land held by the homesteads is equal to the area covered by the surplus. So, I say, if these Indians should dispose of their surplus lands and improvidently waste the proceeds of the sales, they would still have their munificent homesteads, which they could not alienate or encumber.

Mr. DEPEW. For fifteen years?

Mr. STONE. The Senator from North Dakota says from sixteen to twenty years.

Mr. CURTIS. Mr. President—

The PRESIDING OFFICER (Mr. BULKELEY in the chair). Does the Senator from Missouri yield to the Senator from Kansas?

Mr. STONE. Certainly.

Mr. CURTIS. The agreement says "not exceeding twenty-one years from the date of the certificate of allotment," and those certificates—

Mr. STONE. What tribe is that?

Mr. CURTIS. The Cherokees; and that was substantially the provision in each of the agreements, except with the Seminoles.

Mr. SPOONER. Will the Senator read that provision, with the permission of the Senator from Missouri?

Mr. STONE. Certainly.

Mr. CURTIS. Section 13 of the act of July 1, 1902, is as follows:

Each member of said tribe shall, at the time of the selection of his allotment, designate as a homestead out of said allotment land equal in value to 40 acres of the average allottable lands of the Cherokee Nation, as nearly as may be, which shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the certificate of allotment. Separate certificate shall issue for said

homestead. During the time said homestead is held by the allottee the same shall be nontaxable and shall not be liable for any debt contracted by the owner thereof while so held by him.

It is not limited to twenty-one years, as I thought it was.

Mr. STONE. Suppose all homesteads were limited to twenty-one years. In the name of common sense would you want to give a greater privilege to any man enjoying the rights and dignities of American citizenship than to give him his homestead for twenty-one years free from all taxation? If these people can ever learn to care for themselves, they can certainly do it in twenty-one years. In the course of nature not many of the older class will be living twenty-one years from now. It is reasonable to say that the greater number of the older full bloods who have taken these homesteads will be gathered to their fathers before the twenty-one years have ended; and if the younger ones who have nontaxable homesteads, the boys and girls who are now children, have twenty-one years of schools in a populous State with a wise Government, and with the activities of a splendid civilization all around them, can not be sufficiently advanced in the industrial arts to live, then their case is simply hopeless.

Mr. President, Oklahoma is about to be admitted as a State. Half the land of this great empire known as Indian Territory, which constitutes half the State, is held as homesteads, made inalienable for many years, and exempted from taxation; and the proposition here is, by those who oppose this amendment, to make a large part if not the whole of the other half of that empire inalienable for twenty-five years—a quarter of a century—so that no homes can be acquired by honest settlers, and thus block the progress and development of one of the greatest States ever born into the Union.

The VICE-PRESIDENT. Will the Senator from Missouri kindly suspend? The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. Table Calendar No. 26, Senate resolution No. 214, by Mr. CARTER. "That a duly qualified entryman is entitled to a patent for land," etc.

Mr. CARTER. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. The Senator from Montana asks unanimous consent that the unfinished business be temporarily laid aside. Without objection, it is so ordered. The Senator from Missouri will proceed.

Mr. BACON. With the permission of the Senator from Missouri, I desire to ask him, purely for information, whether he understands that the effect of this amendment will in any manner interfere with the allotment, or does it simply restrict the power of alienation?

Mr. STONE. It does not interfere with the allotment.

Mr. BACON. The Indians would still have their allotments?

Mr. STONE. Oh, yes. The Senator is speaking of the committee amendment?

Mr. BACON. I am speaking of the amendment the Senator is now discussing. Is there any other amendment which in any manner proposes to interfere with allotments?

Mr. STONE. No amendment. This amendment would simply remove—

Mr. BACON. The power of final alienation.

Mr. STONE. After July 1 next all restrictions on the alienation of the surplus land of allottees would be removed, the restriction still continuing on the homesteads.

Mr. BACON. If the restriction continues, will that operate in any manner to interfere with the allotment, or does it affect anything except the power of final alienation?

Mr. STONE. No; it does not affect the allotments. The allotments have been made already, and the title vested in the allottees.

Mr. BACON. It does not restrain or interfere with the right of the Indian to lease his land in any way or make any disposition of it other than a final disposition?

Mr. STONE. It does not, except that he can not encumber or in any wise dispose of it now. The land of an Indian is simply locked up under the present law.

Mr. BACON. He can lease it.

Mr. STONE. He can lease it, with the consent of the Secretary of the Interior.

Mr. CLAPP. The full bloods can not.

Mr. STONE. No; but the mixed bloods can.

Now, Mr. President, I am about through. Some letters were read here yesterday from prominent members of the Creek tribe. Among the writers was General Porter, who is the titular head of that tribe, if they have such an official at this time. I know General Porter. He is a very estimable gentleman, prominent in the public affairs of his people and of the Indian Territory.

He is being prominently mentioned, and with a good deal of favor, as a possible representative in this body of the new State of Oklahoma. The Senator from Wyoming [Mr. CLARK] said yesterday in the debate that this distinguished son of the Creek Nation is the fortunate possessor of something like 100 improved farms.

Mr. CLARK of Wyoming. Mr. President—

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Missouri yield to the Senator from Wyoming?

Mr. STONE. Certainly.

Mr. CLARK of Wyoming. If I did not state at that time I meant to be understood as referring to the time when the Indians held all this land in common. Of course, when it was allotted General Porter could only take his allotment as prescribed by law, surrendering the balance of it.

Mr. STONE. At all events, I am of opinion that these gentlemen believe that their lands would be exempt from taxation under the State government, and they believe it with some good reason, if the law remains as it is under the act of 1906. If these restrictions are removed and the lands opened to sale there can be no question then but that they will be subject to taxation, and they ought to be.

Mr. CLAPP. Will the Senator from Missouri pardon a question?

Mr. STONE. Certainly.

Mr. CLAPP. I should like to ask the Senator if he thinks that in 1906 Congress could pass a law which would carry into a State and challenge the sovereignty of a State as to its taxing power and exempt lands from taxation the title to which the United States had absolutely parted with fifty years before, as it did in the case of these lands?

Mr. STONE. I do not.

Mr. CLAPP. No; I presume not.

Mr. SPOONER. Suppose they were exempted before it becomes a State?

Mr. CLAPP. Exempted by whom?

Mr. SPOONER. By Congress.

Mr. CLAPP. That is just the gist of my inquiry. Can Congress, as to lands to which the Government has parted with the title fifty years ago, to which it retains to-day no shadow of title, now, in 1906, before the State is admitted, pass a law regarding those lands which will carry the exemption from taxation of those lands into a State after the State is organized?

Mr. McCUMBER. May I interject a question right there to the Senator from Minnesota [Mr. CLAPP]?

Mr. CLAPP. Yes, sir; if the Senator from Missouri is willing.

Mr. STONE. Certainly.

Mr. McCUMBER. If Congress has no title whatever in the land, then could Congress make any restriction whatever if it parted with its title fifty years ago? If the one is illegal is not the very restriction that we have made illegal on the ground that Congress had no ownership in the property?

Mr. CLAPP. Except for one thing, that as to these lands in 1902 the Indians who owned the fee, because it was a fee title they got fifty years ago, consented to Congress passing a law, not for the creation of trust deeds, but an act of Congress under which the restriction would exist. Had it not been for that I undertake to say as a lawyer that the restriction as to those lands would not be worth the paper it was written on.

Mr. McCUMBER. It seems to me—

Mr. STONE. Mr. President, I do not just now care for that discussion. For the present purpose it is immaterial whether the lands are or are not taxable or would not be taxable under existing law when the State of Oklahoma is admitted; that does not specially affect the point to which I am now adverting. But the gentlemen who are assuming to speak, no doubt with authority, for the Creek Indians (I say neither "yea" nor "nay" as to that, for I do not know) are undoubtedly of the opinion, which prevails there, that if the restrictions are not removed and if the law remains as it was enacted last year the lands will not be subject to taxation, and that they can live in the State, be citizens of it, enjoy all its benefits, be eligible to its offices, become governor, Congressman, Senator, make laws, and execute laws, and yet pay not a farthing for the support of the Commonwealth—

Mr. CLARK of Wyoming. Will the Senator yield to me a moment?

Mr. STONE. Yes, sir.

Mr. CLARK of Wyoming. I desire to say in this connection that that particular feature was especially brought out during the visit of the committee to the Indian Territory at every meeting that they held. With the vast majority of the full bloods, as well as the mixed bloods, who were opposed to the

removal of restrictions the one ground of their opposition to that policy was that it would bring their land thus released under taxation.

Mr. STONE. Mr. President, I have not any doubt that there is a "nigger in the wood pile," and that considerations of this kind are influencing the activity of these distinguished representatives of the Creeks here in making their eloquent protests. Here is my friend, and he is my friend, General Porter, a splendid man, capable of representing his State anywhere, a man with a fine history and fine character. It would be a great thing for him and his people if they could live in the State of Oklahoma, enjoy all the benefits of its government, be eligible to any of the honors within the gift of its people, participating in the conduct of the public affairs of the Commonwealth, and yet be exempt from every burden of the government. No wonder they protest. Indeed, they do protest too much. There is good reason for their course.

Mr. President, in conclusion, I want to say that I do not believe that the progress of the State of Oklahoma ought to be blocked by putting unnecessary obstacles in its pathway. We owe something to the people who are to go there and who have gone there to live by our permission and invitation to build up a great Commonwealth. We owe something to them as well as to a comparatively few ignorant, unfortunate Indians, pitiful remnants of these ancient tribes. God knows, I pity them as much as anyone, and I would do nothing to harm them; but it does seem to me that it is enough, under the conditions and circumstances confronting us, if we assure their homesteads to them for life—homesteads adequate for their support, being never less than 40 acres to every man, woman, and child, and in some instances stretching out into great baronial estates so far as area goes, amounting even to ten or twelve thousand acres to a family. It seems to me that we keep faith and do justice when we do that.

Mr. SPOONER. Ten or twelve thousand acres?

Mr. STONE. Yes; in some instances. The Choctaws and Chickasaws have an average homestead of 320 acres, and it may run up to several times that amount, depending upon the character and value of the lands; and it may fall below 320 acres. It depends upon the value of the land. But whether one or two or more constitute the family there is a homestead for each, and the larger the family the larger is the aggregate amount of the family homestead possession. These homesteads represent, as I have said, one-half the total area of the Territory—inalienable for years and years to come and nontaxable.

Mr. President, it seems to me that when we give to these people this much we do them no harm; we are not unjust; we are not unmindful of duty, and we subject them to no unnecessary danger by giving to them the power and right to sell the other half of their lands to settlers, who go in there to live and strive among them. The people who go there are not grafters or thieves, but for the most part they are excellent and worthy people, who have gone there from all our States. To be sure, there may be speculators, grafters if you wish it so, in the Indian Territory as there are elsewhere, who seek to take advantage and to amass dishonestly; but such men constitute the exception and not the rule in the population.

The white men and women who have gone to the Indian Territory to live are as intelligent, as worthy, as patriotic, and as honest as the average run of citizens in any of the States, and nobody familiar with them and with the condition there can controvert that statement. The Senator from Connecticut, whom I see before me [Mr. BRANDEGEE], went down there from New England as a member of this special committee, went over the Territory, which was new and strange to him, and he comes back here to give his testimony as to the high character, as a rule, of the people residing there.

I believe, Mr. President, that if moral, worthy, intelligent, industrious men and women take homes among these Indians and give to them, by their example, lessons of industry, economy, and prudence, nothing will do more to civilize and advance them. We could not do anything better calculated to promote the welfare and elevate and civilize the Indian. The best civilizer is contact with civilization.

Mr. President, it seems to me that from every point of view, whether it relates to the right and power of Congress to impose these additional restrictions or relates to the question of policy to be pursued by the Government—whether from the one point or the other we view it—the amendment proposed by the Committee on Indian Affairs ought to be embodied in the law.

Mr. McCUMBER. Mr. President, those Senators who are seeking by the amendment in this bill to controvert the constitutionality of a law passed by this Congress a year ago have removed from the crown of their argument its most precious jewel, that of consistency. The Senator from Missouri [Mr.

STONE] bases his assumption upon the broad ground that has been adopted by every Senator who has taken that side of this subject, that we have made citizens of these people, that they hold the same relation to the Government and to the State that any other people in the State hold to the respective sovereignties, and that, therefore, we can make no law regarding their property rights that we could not make in reference to the property rights of any white citizen of any State of the Union.

The weakness of that proposition in this case is this: Senators seek to strike at the constitutionality of a past law by a bill which they themselves acknowledge by their own arguments to be absolutely unconstitutional from top to bottom, every page of which has been written and printed upon it the word "unconstitutional." Why? This bill in the very first portion of it provides irrigation for these Indians. It imposes upon the white citizen burdens that it fails to impose upon the Indian citizen. It compels the white citizen to pay immediately, while the Secretary of the Interior may protect the red citizen. Thus we have the distinguishing characteristics between those citizens.

I know the Senator from Missouri will say that Congress has no right, and would not have under the *Heff* case, to make the color of the skin of any citizen the basis of distinct legislation in his favor. I agree with that if we have lost control of that citizen with the peculiar color to his skin. But let us take this proposition: We educate the brown-colored citizen of North Dakota. Does the Senator believe that the Government of the United States can educate the yellow-haired people of North Dakota and exclude from its schools those of darker hair? If they can do that, then they can impose certain conditions and restrictions upon citizens of one class differing from citizens of another class, and thereby impose conditions which they prohibit the State from imposing upon this special class of citizens.

Again, I find by this very bill that it is proposed to provide for a certain sum of money to be paid to judges of Indian courts. Is it possible that any Senator espousing that side of the case will admit that we can provide a court in a State for people having blue eyes and not for those with black eyes? Does the Senator contend that that is constitutional? Yet we are voting for that character of legislation. If one is unconstitutional, Mr. President, every one of these provisions of like character must be unconstitutional.

Again, we are, on every page of this bill, providing for an appropriation of so much money for the support and civilization of the Shoshones, the Kickapoos, the Sioux, the Oneidas, and the other tribes of Indians all over the country. Can the Congress of the United States vote an appropriation for the civilization of citizens based entirely upon their color if there is no other inequality than that of color or previous condition? The Senator who makes the constitutional argument in this case must answer that also in the negative.

So, Mr. President, we can follow through every one of these schools. Here is an appropriation to educate 700 pupils at the Haskell Institute, in the State of Kansas. What right have we to segregate a certain class of the citizens of Kansas and educate them and refuse to open the doors of the school buildings to other citizens? We can not do it if the contention of the Senator from Kansas is correct.

Mr. President, I have not gone so far in my argument against this particular phase of the bill. I admit that it is a serious question whether the courts will hold the McCumber amendment of last year to be constitutional. There are many doubts surrounding it. I only say in support of it that the Supreme Court has never yet decided, nor has any other court, so far as I can learn, decided directly, that we can not, so long as an Indian tribe exists as a tribe and continues its tribal relations, although it is given the right of citizenship, still increase or extend the limitation upon the power of alienation. That is as far as I need to go in this case; but every case that has been considered has been based upon the theory that these citizens are still wards of the Government. The court declared in the *Rickert* case that, notwithstanding the fact that we had given full citizenship to the Indians of Roberts County, S. Dak., they were still the wards of the Government. I asked the Senator from Kansas yesterday if he denied that the court which pronounced that sentence had made an error. He would not say whether it had or not. I understand his position, and he bases it exactly as my position upon this other proposition is based, that it is a matter of doubt. Then if it is a matter of doubt, I am going to resolve that doubt in favor of the Indian.

The Senator from Missouri has stated that we have no right to block the progress of the great State of Oklahoma by keeping so much of its territory free from taxation; that we owe to the citizens of the new State that we give them the opportunity to raise on all the lands alike the necessary funds to conduct

their government. I can answer the Senator from Missouri with the simple proposition that we should not under any circumstances accelerate the progress of the State of Oklahoma by the sacrifice of our Indian population. I know, and every Senator, I believe, knows, that the removal of restrictions would absolutely destroy the Indian; and to the extent that we remove them just to that extent have we committed an irreparable injury against them.

It is more than a mere matter of sentiment with me. It is a matter of eternal justice. I for one can not look upon the fast-disappearing tribes of Indians, who once owned this country as much as any people on the face of the earth ever owned any country, being driven out of it, paupers and vagabonds, without an atom of sympathy on the part of the great American people who have robbed them of their ancient heritage.

I want to protect every full-blooded Indian just as long as the Government can possibly protect him, and when the limitations have expired, when the white man will be in possession of the last acre of his property in the United States, I want him to have a little fund sufficient to buy a home at some other place in the universe, where he may live as long as God Almighty will allow him to live, as an Indian, and where he will not be compelled to live the life of a white man, which means the death of the red man. There is no other sentiment that I have upon this case than that.

So, Mr. President, I submit this matter, so far as I am concerned, with the single proposition that we are not in a position to challenge any other law upon the ground of constitutionality while the very bill that challenges it is loaded from top to bottom with unconstitutional items upon the same basis and for the same reason that we would declare the old law unconstitutional.

Mr. BACON. Mr. President, before the Senator from North Dakota takes his seat—

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. With pleasure.

Mr. BACON. As I understand the argument of those in favor of this amendment, it is based mainly upon the ground that the restriction heretofore imposed by the McCumber amendment was illegal, being inconsistent with the previous legislation granting full rights of citizenship without any restriction.

Mr. McCUMBER. That is the extended restriction.

Mr. BACON. I understand. Now, what I want to ask—and it is in this case largely to have the views of other Senators, because I do not profess to be familiar with the Indian question—as I understand the amendment of the committee found on pages 34 and 35, it proposes to retain the restriction so far as it applies to homesteads.

If I am incorrect in this, of course Senators will correct me, but it seems to me that the assumption of the power to impose that restriction must necessarily be based upon the legality of the McCumber amendment—

Mr. McCUMBER. It certainly must.

Mr. BACON. Because it is simply carving out of the McCumber amendment a lesser restriction; in other words, the argument of Senators is that any restriction is illegal.

Mr. McCUMBER. In other words, it continues the unconstitutional law so far as it affects homesteads and repeals it so far as it affects surplus lands.

Mr. BACON. It seems to me, if the Senator will pardon me a moment—and if I am wrong, the Senator from Minnesota will correct me—to my mind it seems that the committee in proposing that there shall be the restrictions to the extent of the homesteads, necessarily recognizes the legality of the McCumber amendment.

Mr. CLARK of Wyoming. Not at all.

Mr. BACON. I may be in error. I am merely making the suggestion for the purpose of getting information, rather than submitting it as an argument. Having made the suggestion, I will not continue further, but leave it to other Senators to discuss it.

Mr. McCUMBER. Whatever view the Senator may take of it, my view is this: It does not repeal the McCumber amendment, which continued the restriction twenty-five years, except as to surplus lands. If it related to other lands, I will ask the Senator from Wyoming whether the amendment of last year related also to homesteads?

Mr. CLARK of Wyoming. Yes.

Mr. McCUMBER. Then, if it related to homesteads and it continued the restriction on homesteads for a few years at least, say from fifteen to twenty or twenty-five years, that part is not repealed by the provision in this bill, but still continues in force.

Mr. CLARK of Wyoming. That part was largely reenacted by other laws and agreements with the Indians.

Mr. McCUMBER. Except it continued the period of restriction, which was beyond the original agreements and the original laws.

Mr. CLARK of Wyoming. Not very far in the case of homesteads.

Mr. McCUMBER. It continued it for twenty-five years, and none of the others continued it, as I understand, beyond twenty-one years from the date of the allotments, and the allotments have been made from time to time for the last five or six years. That is correct, is it not?

Mr. CLARK of Wyoming. No, Mr. President; it is not correct; and the theory upon which the discussion has been going on is to my notion an incorrect one. The proposition of those opposed to this amendment is not altogether based upon the ground that all our acts have been unconstitutional in treating with the property of these Indians. I expressly stated in the few remarks that I made yesterday that whether or not we had the power cuts little figure in my mind. I based it upon the ground that we had made certain agreements with the Indians, and the mere fact, if it did exist, that we had the power to break that agreement and impose additional restrictions ought not to be exercised by us according to any rule of good morals or good faith. That was the proposition upon which my argument was based, if I made myself clear in any respect. I was not taking into consideration the question as to the power of Congress over these lands; but assuming, for the sake of the argument, that we had the power, I maintained that it was an immoral and an unjust thing to do to exercise that power.

Mr. President, before this point of order is decided, I have a few more suggestions that I desire to make, in view of the debate as it progressed yesterday. Some letters were put in the RECORD by the Senator from North Dakota [Mr. McCUMBER], and also some letters, without reading, at the close of the discussion by the junior Senator from Wisconsin [Mr. LA FOLLETTE]. I only call the attention of the Senate to the latter letters, because they reflect in some degree upon the work of the special committee in the Indian Territory.

Mr. McCUMBER. May I ask the Senator if he refers to the letters I submitted?

Mr. CLARK of Wyoming. No; I am speaking only with reference to the latter letters. The letters which the Senator introduced did not so reflect.

Mr. McCUMBER. I read them over and I thought they did not. If I had thought they did, I certainly should not have submitted them.

Mr. CLARK of Wyoming. Not at all; but the letters which were later introduced did, in a measure, reflect upon the work of that committee. I desire to call attention to the letters appearing on pages 2360 and 2361 of the RECORD. The first is a letter written from Tulsa, Ind. T., December 17, 1906, signed C. H. Cook—undoubtedly a very worthy man, though I am not acquainted with him. He says:

TULSA, IND. T., December 17, 1906.

HON. ROBERT M. LA FOLLETTE,  
Washington, D. C.

DEAR SENATOR: If the papers have not misquoted you, you support the Hitchcock policy of continuing supervision over the Indians' lands. I was at South McAlester during the sitting of the Senate committee. The country was ransacked for testimony to decry that policy and to put the friends of the Indians on the defense.

There is a plain intimation that the work of the committee was "packed" with reference to the particular feature embodied in this amendment.

Mr. LA FOLLETTE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from Wisconsin?

Mr. CLARK of Wyoming. Certainly.

Mr. LA FOLLETTE. I think, Mr. President, that the Senator is drawing an absolutely unwarranted inference from that sentence of the letter. I do not think it was the intention of the writer to imply that the committee was ransacking the country for testimony. I think the writer of that letter means that there were those interested in presenting to the committee witnesses who would testify in favor of the sale of these lands. I think that is all that was intended by the writer. I certainly would not have offered that letter here if I had thought that it implied any desire on the part of the committee to secure partisan testimony.

Mr. CLARK of Wyoming. As a member of that committee I may be unduly sensitive. If I am, it is because the work of that committee has been so fully and completely misrepresented in the public press and in public documents, and certainly when the writer says that on the visit of the committee the country was ransacked for testimony to decry a certain policy, it would

indicate at least that the committee itself who summoned the witnesses before it asked them to come in order to sustain a previously conceived notion as to the legislation which ought to be accomplished. But further on in this same letter, Mr. President, I see this:

I have canvassed this Territory from one end to the other the past month getting information from all sorts and conditions of people, and my conclusion is the wiser ones dreading the coming of statehood, with its implied control of them, with a dread as bitter and relentless as when under the leadership of Boudinot and Ross they fought the right of way concessions for the first roads entering the Territory.

If anybody has been ransacking it for testimony from house to house and through the length and breadth of that Territory in support of a certain declared policy, it seems to me the writer of this letter lays himself liable to that imputation. But further in the letter I imagine the gentleman who wrote it is correcting his statement that he was at South McAlester, because he says:

Rev. J. S. Murrow, who protested so earnestly at the McAlester sitting of the Indian Committee, had less of culture, perhaps, than some of the refined scoundrels who sought to decry his statements.

Mr. President, the only men of the committee at South McAlester who sought to decry the statements of this clergyman were members of that select committee. The only decrying statements made at that sitting at South McAlester to the statement of Rev. J. S. Murrow were made by individual members of that committee of five appointed by this body. "Refined scoundrels!" I am willing to tell the Senate what the statement of the Rev. J. S. Murrow that they found fault with was. Deliberately making the statement before that committee he expressed the opinion that it was the deliberate purpose of the twelve hundred thousand white inhabitants of the magnificent State of Oklahoma to rob the Indians of that land, of their heritage, and of their money.

The chairman of the committee said, "Mr. Murrow, do you make that statement deliberately and do you believe it?" He said, "I make it deliberately and I do believe it." Then the chairman of the committee and others decried his statement; not for one moment would they believe such a statement or accept it as to the whole citizenship of that country. That is the statement of the Rev. J. S. Murrow which was decried, and the only one, and the only people finding fault with that statement were the members of the committee.

Mr. President, I will pass on to another of these communications; and I want the Senator from Wisconsin not to think for one moment that I believe he was conscious of these facts when these letters were introduced. It was quite proper for him to place the letters upon the record, and I am willing they shall remain there, but I am unwilling that they shall remain without some explanation of these most extraordinary statements in the letters. The next letter is from Mr. T. H. Witthome. It is a reasonable and proper letter in the discussion. But the next purports to be a letter written by Carlton Weaver, a member of the constitutional convention now sitting at Guthrie, Okla., with reference to the action or the nonaction of that convention upon this very question of restrictions. I desire to read it, if the Senate will bear with me. It is headed "The convention to form a constitution for the State of Oklahoma." I assume it is written on the official paper of that convention:

DEAR SIR: Since you have in the past demonstrated an interest in fair play for the Five Civilized Tribes in the Indian Territory, I take the liberty of sending you a copy of a resolution which was introduced in the constitutional convention last week—

This was written January 25. "Last week" would have brought it to January 18, at the latest—

and which was referred to a committee the chairman of which is not in sympathy with its purpose. It is destined to die there or be reported after it is too late to accomplish the desired result. Please consider same and bear in mind that every citizen of the Indian Territory—except land sharks—is anxious to see Congress fix a just and equitable limitation on the sale of Indian surplus. There is a single firm in the Chickasaw Nation who have 30,000 acres of Indian surplus under lease, who are waiting for the removal of restrictions, when they expect to make a wholesale purchase at insignificant prices. Land monopolies and a hellish system of tenantry will result unless Congress does not prohibit the wholesale purchase by these land companies and grafters. See to this, Senator, and the whole of the Indian Territory citizenship will thank you.

Please hand the additional copy inclosed to the chairman of Committee on Indian Affairs.

I am, very truly,

CARLTON WEAVER.

I assume that Mr. Weaver is a member of the constitutional convention; and then follows a copy of a memorial, or what purports to be a memorial. Mr. Weaver was probably ignorant of the fact that the constitutional convention of Oklahoma had already by memorial to this Congress passed on this very question, and before he wrote this letter, ten days before he wrote it, there had been presented in this body a memorial, duly considered and passed by the constitutional convention of the State of Oklahoma, sitting at Guthrie, certified to by the officers of the convention, asking for far greater legisla-

tion along the line of the removal of restrictions than is embodied in this amendment. Upon the files of the Indian Committee, referred to it after reading and going into the RECORD here, is the following memorial:

Memorial by the constitutional convention of the proposed State of Oklahoma concerning removal of restrictions upon Indian lands, introduced by Hon. O. P. Brewer, district 77, on the 8th day of January, A. D. 1907, and adopted by unanimous vote of the convention.

## MEMORIAL.

To the President of the United States and to the Senate and House of Representatives in Congress assembled:

We, the representative delegates of the people of Oklahoma and Indian Territory in constitutional convention assembled, respectfully request that the restrictions imposed upon the sale and lease of lands allotted to and held by citizens of the United States in the proposed State of Oklahoma, whether of Indian blood or not, full-blood homesteads excepted, be removed without delay, as a necessary means to the development of our State and the development and welfare of our citizens of Indian blood.

Attest:

JNO. M. YOUNG, Secretary.

WM. H. MURRAY, President.

## CERTIFICATE.

I hereby certify that the within memorial was introduced and passed by the constitutional convention on the date and in the manner above stated.

JNO. M. YOUNG, Secretary.

It was passed on the 8th day of January. There could have been no purpose in the writer of this letter, he being a member of the constitutional convention, in forwarding the letter except for the effect it might have upon the Senate of the United States and upon others who are not aware that the convention had acted, and with a view of creating the impression that the convention had not considered this matter and that a memorial had been presented there protesting against such action and that the chairman of the committee or the convention was smothering it in committee.

Mr. SPOONER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Wisconsin?

Mr. CLARK of Wyoming. Certainly.

Mr. SPOONER. I did not understand what the Senator said. Did the Senator say that the constitutional convention had memorialized Congress for the removal of these restrictions?

Mr. CLARK of Wyoming. The constitutional convention has memorialized Congress. The memorial was sent to me. The memorial was passed by the constitutional convention on the 8th day of January, 1907, was sent to me, and was presented by me on the 16th day of January, 1907, ten days before the letter was dated which comes from the gentleman who, I suppose, is a member of that convention.

I will say that the memorial of the constitutional convention of Oklahoma goes further than the provision reported by the committee, in that the memorial asks that restrictions be removed upon all lands except the full-blood homestead lands. The committee amendment proposes to remove the restrictions only from the surplus lands, whether of full bloods or mixed bloods, retaining the homesteads of the mixed bloods as well as the homesteads of the full bloods.

I wanted to make that explanation, Mr. President, in regard to these matters merely because I felt that the writers of these letters had reflected in a measure upon the work of the committee in the Territory.

I will say, further, that if the writer of the letter was a member of that convention he failed to attempt to impress the convention with his views, because the memorial shows that it was adopted by the unanimous vote of the convention, and in that convention, of course, are Indians from the eastern half of the proposed new State; how many of them I do not know.

Mr. SPOONER. Mr. President, is there a point of order pending against the amendment?

Mr. CLARK of Wyoming. The Senator from Kansas [Mr. CURTIS] interposed a point of order.

The VICE-PRESIDENT. A point of order was interposed at a former session.

Mr. SPOONER. I will not take any of the time of the Senate in discussing this matter, if the amendment is to be held by the Chair out of order.

The VICE-PRESIDENT. The Chair will submit to the Senate, under subdivision 2 of Rule XX, the question whether the amendment is in order.

Mr. LA FOLLETTE. The proposed amendment is still open to discussion, I understand. I am in order, am I not?

The VICE-PRESIDENT. The Senator from Wisconsin is in order.

Mr. LA FOLLETTE. I desire to occupy just a moment in making brief response to the remarks of the Senator from Wyoming [Mr. CLARK].

With respect to the letter which I offered last night, signed

by Mr. Cook, I will say that the writer of that letter is a resident of Mondovi, Wis. He has written me occasionally with respect to matters in the Indian Territory, where he has spent a considerable period of time within the last year. I think the Senator from Wyoming has put an entirely forced construction upon that portion of his letter in which he speaks of having traversed up and down the Indian Territory. It is clear that the writer simply uses that form of expression to indicate his thorough acquaintance with the Territory. It does not mean that he was in search of witnesses. Indeed I do not think that Mr. Cook offered his testimony as a witness or that his testimony was taken at all.

I supposed, of course, that the reference made in the letter later to the testimony of Rev. J. S. Murrow and to those who sought to decry his testimony was as to witnesses who presented themselves before the committee. As the testimony has not yet been printed, excepting the committee no one has had opportunity to know what is contained in that testimony.

Now, with reference to the letter from Mr. Weaver, transmitting the memorial introduced in the constitutional convention now in session in Oklahoma. That memorial is not at all in conflict with the one heretofore passed by that convention and presented by the Senator from Wyoming.

The memorial transmitted by Mr. Weaver is one that may well have been introduced in the constitutional convention, after the memorial was passed which the Senator from Wyoming has read into the RECORD. The memorial inclosed in the letter from Mr. Weaver and printed in the RECORD immediately following it is as follows:

To the Congress of the United States, to the President, Theodore Roosevelt:

Whereas the special Senate Committee on Indian Affairs has recommended the removal of the restrictions upon the alienation of surplus allotments and other lands in the Indian Territory; and

Whereas the material interest of all the people of the Indian Territory, as well as the State at large, depends upon a broad and equitable distribution of the landed interest; and

Whereas a great amount of said lands are at present controlled by land companies and speculators under an obnoxious lease system; and Whereas unless prohibited by the Congress said land companies and speculators will gain control of a vast amount of Indian lands, which will result in large holdings and land monopolies; Therefore, be it

Resolved, That we, the representatives of the people of the Indian Territory and Oklahoma, in convention assembled, do respectfully pray that the sale of all said alienated lands be restricted so as to prohibit land or lease monopolies and to permit only natural persons to become purchasers or lessees thereof, and then only of such limited amounts as will guarantee a broad and equitable distribution.

Resolved, That a copy of this memorial be forwarded to both Houses of Congress and the President of the United States.

Mr. CLARK of Wyoming. Will the Senator from Wisconsin permit me for a moment?

Mr. LA FOLLETTE. Certainly.

Mr. CLARK of Wyoming. I think the Senator is entirely correct as to the subject-matter of that memorial, and probably of the letter also, except that, making its appearance on the discussion of this particular amendment, I assumed that it was thought to refer to the removal of restrictions as well as to the sale of the lands afterwards.

Mr. LA FOLLETTE. I think it may well have reference to just exactly what is proposed in this amendment. I think that members of this body might well entertain the view that if the restrictions are to be entirely removed there might be added a provision that this land when purchased should be purchased by natural persons, and, furthermore, that it should be purchased by natural persons in limited areas, thus preventing the land from passing into the hands and under the control of those who would hold in large bodies. That is all I have to say.

Mr. SPOONER. Mr. President, I think the point of order is well taken. To carry out existing law the House incorporated a provision in the bill appropriating money to conduct an investigation which had for its object, as I recollect—

Mr. CLARK of Wyoming. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Wyoming?

Mr. CLARK of Wyoming. I should like to ask a question before the Senator from Wisconsin enters upon his discussion.

Mr. SPOONER. I shall be but a moment.

Mr. CLARK of Wyoming. Just what was the point of order made against the amendment?

Mr. CURTIS. I made the point of order that the amendment proposes general legislation and repeals existing law. I understand that under the rules of the Senate, after the point of order is made, the matter can be debated generally.

Mr. CLARK of Wyoming. What I wanted to get at is what is the particular and distinct point of order made against the amendment.

Mr. SPOONER. I did not make the point of order. I supposed the point of order is that it proposes general legislation.

Mr. CLARK of Wyoming. I beg the Senator's pardon.

Mr. SPOONER. That is all right.

Mr. CLARK of Wyoming. I interrupted him for the purpose of asking the Senator from Kansas or the Chair what exactly the point of order is.

Mr. SPOONER. It was entirely agreeable.

Mr. CLARK of Wyoming. I am still unaware what it is.

Mr. CURTIS. It is that the amendment proposes general legislation and repeals existing law.

Mr. SPOONER. The provision made by the House was "to carry out the provisions of the act approved April 21, 1904, for the removal of restrictions upon the alienation of lands of allottees of the Five Civilized Tribes, \$25,000."

That was an act which gave authority to the Secretary of the Interior to remove restrictions where upon investigation he found that the Indians were competent to attend to their own affairs and could without improvidence be intrusted to manage their own affairs and to dispose of their lands, except the homesteads. The amendment proposed by the Senate committee is to strike out the House provision and to insert in lieu thereof the following:

On and after July 1, 1907, all restrictions upon the alienation, leasing, or encumbering of the lands, except homesteads, of all allottees of Indian blood in the Indian Territory, and all restrictions upon the alienation, leasing, or encumbering of all the lands of allottees not of Indian blood are hereby removed.

It changes absolutely a general law. I will not say absolutely, but it changes it sufficiently, I think, to make the amendment obnoxious to the point of order that it is general legislation.

Mr. President, I wish to say a few words, and only a few words, upon the merits of the proposition, for which I can not vote. I am embarrassed and I suppose other Senators are embarrassed by the fact that it is recommended by a committee whose province it is to investigate these questions, and which has, through a special committee or a subcommittee that visited the Indian Territory for the purpose, made an investigation which leads to this recommendation. The good faith of either the subcommittee or the main committee no one can with propriety or any warrant whatever impugn. I take it for granted that the committee is fully convinced that these restrictions ought all to be removed. But, Mr. President, this is getting along toward the end of Indian legislation, and I have noticed that within the last few years whenever there has been a debate upon the Indian appropriation bill it has been to a considerable extent a confession of former blunders.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Rhode Island?

Mr. SPOONER. Certainly.

Mr. ALDRICH. I have for the past ten or twelve years heard similar statements to the one the Senator from Wisconsin has just made in regard to Indian legislation, and each succeeding year brings a larger volume of legislation in regard to the Indians. The Senator may see the end of it, but I do not.

Mr. SPOONER. I can see the end of the Indian—

Mr. ALDRICH. Well, that may be.

Mr. CLARK of Wyoming. If we adopt some of these amendments—

Mr. SPOONER. And of all Federal protection of the Indian; and if we have made blunders—and there is no question whatever that colossal blunders have been made, terrific almost in their detriment to the well-being of the Indian—I think we should be particularly careful not to make any more.

Mr. President, I do not intend to discuss the constitutionality of the McCumber amendment. That amendment, as I remember, was passed after pretty full debate in the Senate. It is the law, unless it is unconstitutional. I have very grave doubts about its constitutionality; but this is not the tribunal, really. Mr. President, to determine whether the McCumber amendment is or is not constitutional. I prefer to resolve the doubt, so far as this proposition is concerned, in favor of the constitutionality of the statute; and that is what the Supreme Court will do if it can. That is what all courts do if they can, for courts with reluctance overthrow legislation of Congress upon constitutional grounds. They do not do it unless the unconstitutionality is quite clear.

So assuming that it is a constitutional act, ought it to be repealed? I have no doubt that the members of the constitutional convention in Oklahoma are in favor of its repeal. As I heard the Senator from Wyoming [Mr. CLARK] read their memorial, they gave what, from the standpoint of the white man, is always an adequate condition for such a repeal. They do not wish to have the prosperity and development of the new State of Oklahoma retarded by withholding from sale—and therefore from settlement—this body of Indian land. That is

natural enough. But an appeal from the constitutional convention of Oklahoma ought not to reach this body with peculiar force in a matter of this kind. When the act was passed admitting Oklahoma into the Union this was the law. The McCumber amendment was upon the statute book. We all wanted Oklahoma admitted as a State into the Union—1,200,000 people, millions of acres of arable land, splendid climate, everything which goes to build up a State fit to take her place with the original States. I want to see Oklahoma progress. I desire to see her move forward to the place which will rightfully belong to her in the sisterhood of the States. But I think it is the duty of the Senate now not to think of Oklahoma upon this question, not to legislate with reference to the white men of Oklahoma, not with a view to furnishing homes out of Indian lands to white home seekers. I think this legislation ought to be enacted or it ought to be rejected with reference to the interest of the Indians. They have lived there longer than any white men have lived there. They lived there long before the name "Oklahoma" almost was known.

Mr. CLARK of Wyoming. Will the Senator from Wisconsin permit a question?

Mr. SPOONER. Yes.

Mr. CLARK of Wyoming. Does the Senator think that the interests of the white citizens of the State of Oklahoma necessarily are opposed to the interests of the Indian citizens of that State?

Mr. SPOONER. I do not propose to discuss that question. They put it in this memorial, as I heard it read, upon the ground, which is undoubtedly true, that without the removal of these restrictions the development of Oklahoma will be more or less retarded. That is obviously true, but that has nothing whatever to do with the question whether these restrictions should or should not be removed.

Mr. CLARK of Wyoming. No; but the Senator evades my question.

Mr. SPOONER. I did not intend to.

Mr. CLARK of Wyoming. I do not think he understood the question.

Mr. SPOONER. What is the question?

Mr. CLARK of Wyoming. I asked the Senator whether he assumed that this forward movement in Oklahoma, this disposition to rise and go forward and take advantage of all of the opportunities, was necessarily to the detriment of the Indians?

Mr. SPOONER. I think that this proposition from Oklahoma, in the interest of the growth and development of Oklahoma, is necessarily, so far as the full bloods are concerned, antagonistic to the interests of the Indians. You can not by law change an Indian into a white man. These full bloods were no better qualified to manage, without improvidence, their own affairs the day after they became, under the operation of law, citizens of the United States than they were the day before. Racial characteristics can not be changed by any act of man. That is a matter of growth, and it takes a long, long time.

The Senator from Kansas yesterday brought to the attention of the Senate two instances which ought to rivet the attention of every man and woman in this country who has any care for the Indians. In the days to come if there is any one thing in our history of which intelligent men and women will not feel proud it is the trusteeship of the United States of the Indian and its observance.

Let me call attention to a case, if I may, for just one moment. I do not know whether the Senator from Maine [Mr. HALE] heard it. There have been thousands of such instances, and if these restrictions are removed there will be thousands and thousands to come. This was the case of two women; and the Indian woman, so far as I know anything about Indians—and I knew something about them once from being among them—is as bright in the transaction of business and bargain making as her husband.

After very careful consideration, a year ago Congress removed the restrictions upon certain members of the Cherokee tribe of Indians; and I want to call your attention to two cases to show the result. One was the case of Betsey Gallitcher. She owned 130 acres of land. The restrictions were removed and she sold that land for \$2,350. There were twenty-eight producing wells on it. Eight of them were flowing and twenty were being pumped. Her income from the royalty on those oil wells amounted to \$39 a day, or \$14,245 a year, and yet she sold that land for \$2,350.

And yet she sold that land and gave that income, so long as those oil wells shall produce, to white men for \$2,350. A white woman who would do that would be put under guardianship. A white man who would so improvidently dispose of his property would be held by a court to be unfit to manage his own affairs. Take the case of an Indian woman, pleased with tinsel and baubles, wanting a little money—money in hand, not the money to come in hand.

Mr. President, it looks to me to be a wicked thing to remove the protection which the law has attempted to throw around the improvidence, natural and from habit, not of all Indians, but of the great majority of Indians, especially of the full blood.

The Senator from Kansas [Mr. CURTIS] called attention to another specific case.

Mr. ALDRICH rose.

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Rhode Island?

Mr. SPOONER. I do.

Mr. ALDRICH. I should like to know what are the restrictions under existing law? I am asking for information, in the utmost good faith.

Mr. SPOONER. They are made by the McCumber amendment twenty-five years.

Mr. ALDRICH. What consent would be necessary for this woman to alienate her property?

Mr. SPOONER. That of the Secretary of the Interior, after investigation.

Mr. ALDRICH. The House provision provides for making an inquiry as to whether the Indian woman in this case was able to transact her own business?

Mr. CLARK of Wyoming. No; I beg leave to interrupt. Under the McCumber amendment the Secretary of the Interior is debarred from removing restrictions.

Mr. SPOONER. But another law was passed which authorizes it.

Mr. STONE. What law was it?

Mr. SPOONER. Not as to full bloods, but as to mixed bloods.

Mr. LONG. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. SPOONER. Certainly.

Mr. LONG. I understood the Senator to say there is another law authorizing the Secretary to remove restrictions from full-blood Indians.

Mr. SPOONER. No; I did not mean to say that. This proposed bill removes restrictions from full-blood Indians.

Mr. LONG. As to surplus lands?

Mr. SPOONER. Oh, yes; as to surplus lands, lands which are increasing in value every day, and which will increase in value as that State progresses and develops. Why should not the Indian have the increase? Why should the restriction be removed and the Indian be left a prey of the white man, to part with his land at unreasonably low prices, having little money in hand? Why not continue to guard him? Why not continue to remember that, although he has been made a citizen of the United States, he is still an Indian just as much as he ever was?

Mr. BURKETT. May I ask the Senator a question which occurs to me?

Mr. SPOONER. Certainly.

Mr. BURKETT. As I have followed this debate, it seems to be developed that a great majority of the people down there can take care of themselves and can handle their lands. The question I desire to ask the Senator is, whether he would by pursuing this policy tie up the possibilities and the hopes of the two-thirds or the three-fourths who can handle their property, rather than tie up the comparatively few who can not handle their property?

Mr. SPOONER. Mr. President, I am making no objection to the removal of restrictions, under proper safeguards, as to the mixed bloods. This is a proposition to remove the restrictions as to all the lands except the homesteads of the 24,000 full-blood Indians, and one of the arguments which all through this debate has been made in support of the proposition is an argument which is absolutely fatal to it. I will say to the Senator from Nebraska I have not heard any definite information which enables me to say that the proportion of full-blood Indians especially who are capable of managing their own affairs has been determined.

I asked the Senator from Kansas [Mr. LONG], who has had much to do with this subject, and I got the impression from what he told me that as to the full-blood Indians they are, so far as business capacity is concerned, about like our own full-blood Indians in Wisconsin.

The argument which has been made here over and over again was made by the Senator from Kansas, and it has been made by other Senators, that this proposition ought to be enacted into law in order to protect the Indians. Protect them from what? Protect them from selling their lands, because of the apparent cloud which the McCumber amendment throws upon the title, at sacrificial prices vastly below their present market value. That argument, Mr. President, is simply an assertion of the necessity of what I am contending for, that these people still

ought to have, as far as the Constitution permits it, the guardianship of wise, just laws.

It is said that they have made contracts of lease and contracts of sales. One Senator said that they did that in order to get the money to enable them to improve their homesteads. But when questions were asked to get at the facts in regard to it, it turned out that the payments are only nominal payments of \$5 or \$10, enough to bind the bargain, practically. They could not utilize that money to any great extent in improving their homesteads.

The assertion that they are selling their lands so much below their present value because of the cloud upon the title, and therefore the cloud ought to be removed, establishes beyond any question, even from the standpoint of the Senators who are pressing this proposition, that these Indians are not fit to be intrusted with the management of their own affairs.

Mr. ALDRICH. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Rhode Island?

Mr. SPOONER. Of course.

Mr. ALDRICH. I am still seeking for information upon this subject, which is very abstruse to myself. I should like to ask the Senator from Wisconsin whether he thinks the question of blood, which he seems to dwell upon, is the only question to be raised as to the guardianship of the Indians.

Mr. SPOONER. Not at all, but the half-breeds have transacted business to a much greater extent than the full bloods. It is so in my own State. It is so generally. But the restrictions are not absolutely removed from them. They are only removed from them, and can only be removed, on investigation and in individual cases. But this proposition sweeps them away.

Mr. ALDRICH. It seems to me there are very great difficulties about the question of indefinite guardianship in any event. It does not appear to be very clear as to who should be put under guardianship, and the character of the guardianship, as to whether it should be located in some executive officer of the Government or some court or some other power, which should take up the matter in a different relation. I imagine that the Secretary of the Interior can have little knowledge as to whether a woman ought to sell her property in the Indian Territory or not. It seems to me that the guardianship is pretty remote; and the reason upon which the guardianship is based is perhaps even more remote and indefinite.

Mr. SPOONER. Then the argument would be that because it is troublesome and difficult to ascertain whether a given Indian is competent to transact his or her business without improvidence all restrictions upon Indian right of alienation should be removed. That means the destruction of the Indian. That means the pauperization of the Indian.

Mr. DEPEW. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from New York?

Mr. SPOONER. Yes, I will yield to anyone. I am about through.

Mr. DEPEW. In reference to the question as to the proportionate number who are in favor of or opposed to the removal of these restrictions, here is a letter signed by P. Porter, principal chief; G. W. Grayson, and S. J. Haynes, delegates of the Creek Nation, saying that the Creek Nation is unanimously opposed to the removal of the restrictions.

Mr. CLARK of Wyoming. I do not know whether the letter says that. If it does, it does not state the fact.

Mr. DEPEW. It precisely says that.

Mr. SPOONER. There are not many Indian voices here asking for the removal of these restrictions.

Mr. CLARK of Wyoming. There are more Indian voices here asking for the removal of the restrictions than there are any other voices.

Mr. SPOONER. I do not know that.

Mr. McCUMBER. I should like to ask the Senator if he means by Indians full-blood Indians?

Mr. CLARK of Wyoming. No; I mean Indians like Pleasant Porter, who is not a full-blood Indian.

Mr. McCUMBER. As has been admitted, most of them are from a sixteenth to a thirty-second Indian.

Mr. CLARK of Wyoming. It is not admitted. The Senator does not state an admitted fact.

Mr. SPOONER. Mr. President, I was about to call attention to another case, mentioned by the Senator from Kansas [Mr. CURTIS]; and there are a great many others, he said, which he could bring to the attention of the Senate. An Indian woman—I can not pronounce her name—after the restrictions were removed had 50 acres of land. There were eight flowing wells

on the 50 acres. Her income was \$2,847 a year from the royalty alone, and yet, as I have said, she sold the land for \$1,500.

Mr. STONE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. SPOONER. Certainly.

Mr. STONE. I should like to find out, if I can, where that information came from. Does the Senator from Wisconsin know?

Mr. SPOONER. No. I did tell where it came from. It came from the Senator from Kansas [Mr. CURTIS].

Mr. CLARK of Wyoming. I can tell the Senator where it came from exactly.

Mr. STONE. I should like to know about the reliability.

Mr. CLARK of Wyoming. There is no question as to its reliability. The Congress of the United States last year by direct act removed the restrictions from 1,600 of these Indians.

Mr. LONG. On the recommendation of the Department of the Interior.

Mr. CLARK of Wyoming. The Secretary of the Interior directed the inspector of Indian affairs in the Territory to investigate sixteen cases—as to what they had done with their property. The record of that investigation is in part what the Senator from Kansas gave as to these two cases. There was no investigation made as to any case upon which the restrictions had been removed by the Secretary of the Interior. I am sorry to say that in very many instances it will be found that where restrictions have been removed the property has been dissipated. There is no question about that.

Mr. SPOONER. This is also a proposition to remove restrictions by law. I am curious to know how many of the sixteen wasted their property.

Mr. CLARK of Wyoming. All of them, I think, did.

Mr. CURTIS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. SPOONER. Certainly.

Mr. CURTIS. I have a list here. I made the statement and it appears in the Record. It shows that in fourteen of these cases the Indians had sold their land at from one-third to about one-tenth of what it was worth.

Mr. SPOONER. Men and women?

Mr. CURTIS. Men and women.

Mr. SPOONER. That is, fourteen out of sixteen?

Mr. CURTIS. Fourteen out of sixteen.

Mr. STONE. Will the Senator allow me to ask him how it was known that the land was sold at from one-third to one-tenth of its value?

Mr. CURTIS. Inspectors were sent down and had the land appraised. A full report was made showing the cases where oil wells were on the land, how many oil wells, how much oil was produced, what the royalty was on each barrel, and how much it amounted to in a day or week and in a year. It was shown that in one case there were twenty-eight producing wells; that the income was \$39 a day, or \$14,000 a year, and she sold the land for \$2,387.

Mr. CLARK of Wyoming. Will the Senator allow me?

Mr. SPOONER. Certainly.

Mr. CLARK of Wyoming. As to the value, I think it must be understood that annual computations are made, when the fact of the matter is that not one-third or probably one-tenth of that revenue could be derived. The amount which could be derived for one day is multiplied by 300 or 365. But aside from that fact, in the case mentioned, I think it may reasonably be said there was sufficient evidence from the report of the inspector to show that the property was substantially dissipated.

Mr. DEPEW. I will ask the Senator from Wyoming if \$14,200 a year capitalized would not make that property worth in the neighborhood of \$300,000?

Mr. CLARK of Wyoming. I am not a financier.

Mr. DEPEW. It would make it worth \$300,000 instead of \$2,300, for which it was sold.

Mr. SPOONER. There the restrictions were removed by law; and it is proposed here to remove the restrictions from the power of alienation of a great many thousand Indians by law. In that case fourteen out of sixteen were found to have been turned adrift, including these two women, by a Government resting under a duty to safeguard them against such improvidence as solemn as the father holds toward his son, a minor, and unfit to transact business. What good ground is there for supposing that the proportion, 14 to 2, as to the 24,000 or the 50,000 from whose power of alienation it is proposed here to remove all restrictions, will be much less?

Mr. CLARK of Wyoming. I can give the Senator my reply; but, of course, I do not know whether it is along his line.

Mr. SPOONER. I have no line.

Mr. CLARK of Wyoming. The Senator's argument seems to assume that these sixteen are the only ones from whom restrictions were removed. The sixteen were special cases in which inquiry was made by the Department of the Interior. No inquiry was made as to the hundreds of cases from which the restrictions were removed by the Secretary of the Interior himself. This, I suppose, was to show the iniquity of Congress in acting in individual cases, thereby changing the general course, which allowed the Secretary of the Interior to act in individual cases.

I will say to the Senator I am as much opposed as the Secretary of the Interior or anybody else to Congress legislating off restrictions in individual cases, because in those cases it will be found that the removal of restrictions is asked for, as was developed in these cases, not by the Indians themselves, but by somebody who is particularly interested in the special piece of ground from which it is sought to remove the restrictions.

Mr. SPOONER. I think the Senator is quite right, that it is improper to remove restrictions in individual cases by law. I think he would be quite right if he went further and said that it is improper to remove restrictions by law en masse, without investigation, because it ignores the nature of the Indian and the racial weakness of the Indians, and it can bring nothing but harm to the Indian.

Now, Mr. President, I do not wish to take the time of the Senate further.

Mr. STONE. Will the Senator permit me before he concludes?

Mr. SPOONER. Certainly.

Mr. STONE. He is familiar with the legislation relating to these tribes, the legislation under which they hold title to land. I should like to ask his opinion as a lawyer, if he has not expressed it already, before I came into the Chamber, as to whether what is known as the McCumber amendment and laws of that kind imposing additional or extended restrictions on the right of alienation are valid laws?

Mr. SPOONER. I propose to refer that to the Supreme Court.

Mr. STONE. I ask the opinion of the Senator from Wisconsin.

Mr. SPOONER. I said before the Senator came in that I have very grave doubt about it. I have not examined it with great care. It is disputed in this Chamber. Some lawyers here think it is constitutional; others think it is not; others think it is doubtful. Mr. President, I do not think we ought to predicate such legislation as this upon the conclusion that it is unconstitutional and therefore should be repealed.

Mr. STONE. Will the Senator permit me further?

Mr. SPOONER. Surely.

Mr. STONE. I have heard several lawyers, and lawyers of recognized ability, express their decided opinion that such legislation is unconstitutional; I have heard lawyers like the Senator from Wisconsin [Mr. SPOONER], the Senator from North Dakota [Mr. McCUMBER], and perhaps others on the other side of this question express their doubts as to the constitutionality of the law; but I have not yet heard a lawyer here say he believed it constitutional.

Mr. SPOONER. Perhaps no lawyer has said that.

Mr. McCUMBER. The Senator from Kansas said it.

Mr. SPOONER. The Senator from Kansas, I believe, announced his opinion that it was constitutional. At any rate it was solemnly enacted by Congress, and very many of the Senators now here, I presume nearly all of them, voted upon it. I think it ought to be left to the Supreme Court to pass upon it. With all my heart I hope if it is left to the Supreme Court to pass upon it that court will be able conscientiously to sustain it, because it is my conviction that this will be the last of many body blows struck by the Congress of the United States at the Indian. If it is unconstitutional, all these Indians will be left free to become the prey of the white man's unquenchable hunger for the Indian's land. I am not reflecting upon the white man generally when I say that. I think that it is a vanishing race. We are pretty near through with them, except to take care of them after their lands shall have been taken from them. I sincerely hope, myself, that we will make a little pause on this practically last step.

The VICE-PRESIDENT. Is the amendment in order? [Putting the question.] In the opinion of the Chair—

Mr. McCUMBER. I ask for the yeas and nays, Mr. President. The yeas and nays were ordered.

Mr. BACON. Mr. President, I wish to say I understand that, as is usual in cases of such votes, really in this case the vote is on the merits of the proposition, and not upon the parliamentary question. I wish to say that, in order that I may not be committed on any parliamentary view.

Mr. ALDRICH. I wish to say that I shall vote in this case upon the question of whether this proposition is in order or not

without any regard to the merits of the case at all, and I hope every other Senator will do the same.

Mr. BACON. I do not think that has been the usual custom in such cases; and I want to say that I intend to vote according to the merits of the case.

Mr. ALDRICH. I suppose every Senator will vote as he pleases.

Mr. BACON. The merits of the case, I presume, will decide the question of the adoption of the amendment.

Mr. CULBERSON. What is the amendment on which the question arises?

The VICE-PRESIDENT. The Secretary will state the proposed amendment on which the question of order has been raised.

The SECRETARY. On page 34, beginning with line 17 of the bill, it is proposed to strike out the following words:

To enable the Secretary of the Interior to carry out the provisions of the act approved April 21, 1904, for the removal of restrictions upon the alienation of lands of allottees of the Five Civilized Tribes, \$25,000: *Provided*, That so much as may be necessary may be used in the employment of clerical force in the office of Commissioner of Indian Affairs.

And to insert:

On and after July 1, 1907, all restrictions upon the alienation, leasing, or encumbering of the lands, except homesteads, of all allottees of Indian blood in the Indian Territory, and all restrictions upon the alienation, leasing, or encumbering of all the lands of allottees not of Indian blood are hereby removed.

Mr. BACON. I understand that the effect of the amendment is to remove the present restrictions under existing law, and that the effect of voting against that amendment is to retain the present restrictions of existing law against the alienation of land by the Indians.

Mr. CLAY. And to impose additional restrictions.

Mr. BACON. If stricken out the law remains as it now is; that is, if the amendment does not prevail the law will remain as it now exists.

Mr. CULBERSON. The question is not whether this shall be stricken out, but whether the amendment is in order, as I understand.

The VICE-PRESIDENT. The question is, Is the amendment in order? If the Senate shall decide that the amendment is in order, the question will then be upon agreeing to the amendment.

Mr. CULBERSON. And those voting "nay" on the question of order would be in favor of retaining the present restrictions.

Mr. McCUMBER. Mr. President, will the Chair please state the point of order again, so that the Senate may fully understand it.

The VICE-PRESIDENT. The Senator from Kansas [Mr. CURRIE] raised the point of order that the proposed amendment was general legislation, and changed existing law.

Mr. ALDRICH. I shall vote "nay" upon the proposition, because I believe that this amendment is general legislation and is therefore in violation of the sixteenth rule. How I shall vote if this amendment be declared in order I do not know, and I think that is not pertinent to this question.

Mr. BACON. Mr. President—

Mr. McCUMBER. Do I understand the Senator aright that he said he would vote "nay" because he believed the amendment was general legislation?

Mr. ALDRICH. I do so believe, and I believe that it is not in order. The proposition as put by the Vice-President is, Is this amendment in order? I shall vote that it is not in order, as I believe it is a clear violation of the sixteenth rule.

The VICE-PRESIDENT. If the Senate holds that the amendment is in order, then the question will follow, Will the Senate agree to the amendment? If the Senate votes that the amendment is not in order it will go out on the point of order.

Mr. McCUMBER. I thought it was before stated that the question was whether the point of order be well taken. That is presented in one form. In the other form it is presented in the opposite shape.

The VICE-PRESIDENT. The usual form is, Is the amendment in order?

Mr. PATTERSON. Mr. President, I should like the opinion of the Chair on the effect of a vote sustaining the point of order against the committee amendment commencing on line 24, page 34, and ending with line 4, on page 35, upon the previous paragraph that was part of the bill as it came from the other House and has been stricken out by the committee. In other words, I understand the committee amendment to have been to strike out from line 17 to line 23, on page 34.

Mr. CLAPP. I do not think that has been yet stricken out. That was passed over because the committee amendment inserting new language was not adopted.

Mr. PATTERSON. The committee amendment was not adopted? Then what becomes of the preceding paragraph?

Mr. SPOONER. It is retained.

Mr. CLAPP. We should then reject the committee amendment, commencing on line 17.

The VICE-PRESIDENT. The question is, Is the amendment in order? on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from Virginia [Mr. MARTIN], and I therefore withhold my vote.

Mr. GAMBLE (when his name was called). I have a general pair with the Senator from Nevada [Mr. NEWLANDS]. He does not appear to be in the Chamber, and I therefore withhold my vote.

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK], who is absent, but I transfer that pair to the Senator from New York [Mr. PLATT] and vote. I vote "nay."

Mr. PATTERSON (when Mr. TELLER's name was called). I desire to state that my colleague [Mr. TELLER] has been sick now for nearly a week and is liable to be detained by sickness at his hotel for several days yet to come. I make this statement at his request, and desire that it shall stand for subsequent votes on the Indian appropriation bill.

Mr. HALE (after having voted in the negative). I have been requested on this vote to pair with the Senator from Colorado [Mr. TELLER], but I transfer that pair to the Senator from New Jersey [Mr. DRYDEN], leaving the Senator from Colorado and the Senator from New Jersey paired on this vote. I will let my vote stand.

Mr. TILLMAN (when his name was called). I have a general pair with the Senator from Vermont [Mr. DILLINGHAM], who is not in the Chamber. I do not know how he would vote, if present, and I do not like to leave him unprotected, though I think he would vote with me on this issue. I will therefore transfer my pair to the Senator from Mississippi [Mr. MONEY], if he is not paired with some other Senator, and vote. I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the Senator from Mississippi [Mr. MONEY], but as that pair has been transferred to the Senator from Vermont [Mr. DILLINGHAM], with whom the Senator from South Carolina [Mr. TILLMAN] has a general pair, I am at liberty to vote. I vote "yea."

The roll call was concluded.

Mr. PERKINS (after having voted in the negative). I have a general pair with the Senator from North Carolina [Mr. OVERMAN], who is absent from the Chamber. I will therefore transfer my pair with that Senator to the Senator from New Hampshire [Mr. GALLINGER] and let my vote stand.

The result was announced—yeas 22, nays 31, as follows:

#### YEAS—22.

|           |              |          |            |
|-----------|--------------|----------|------------|
| Berry     | Clark, Mont. | Long     | Stone      |
| Brandegee | Clark, Wyo.  | McCreary | Sutherland |
| Burkett   | Clarke, Ark. | McLaurin | Tillman    |
| Burnham   | Clay         | Piles    | Warren     |
| Carper    | Fulton       | Proctor  |            |
| Clapp     | Kittredge    | Rayner   |            |

#### NAYS—31.

|            |            |             |           |
|------------|------------|-------------|-----------|
| Aldrich    | Depew      | Heyburn     | Mulkey    |
| Allee      | Dick       | Hopkins     | Nelson    |
| Ankeny     | Dubois     | Kean        | Patterson |
| Bacon      | Du Pont    | La Follette | Perkins   |
| Burrows    | Flint      | Latimer     | Pettus    |
| Culbertson | Frye       | Lodge       | Simmons   |
| Curtis     | Hale       | McCumber    | Spooner   |
| Daniel     | Hansbrough | Mallory     |           |

#### NOT VOTING—36.

|            |           |          |            |
|------------|-----------|----------|------------|
| Allison    | Dolliver  | Knox     | Penrose    |
| Bailey     | Dryden    | McEnery  | Platt      |
| Beveridge  | Elkins    | Martin   | Scott      |
| Blackburn  | Foraker   | Millard  | Smoot      |
| Bulkeley   | Foster    | Money    | Tallaferro |
| Carmack    | Frazier   | Morgan   | Teller     |
| Crane      | Gallinger | Newlands | Warner     |
| Cullom     | Gamble    | Nixon    | Wetmore    |
| Dillingham | Hemenway  | Overman  | Whyte      |

The VICE-PRESIDENT. The Senate has decided that the amendment is not in order.

Mr. CLAPP. In view of that decision of the Senate, I desire to ask that the Senate reject the committee amendment from line 17 to line 23, inclusive, on page 34.

The VICE-PRESIDENT. The Chair understands that the effect of the vote just taken is to restore the House provision. The amendment of the committee was to strike out and insert. The Senate has decided that the amendment is not in order.

Mr. CLAPP. Now, if the Senate will bear with me, I wish to say that in the Indian Territory there is a tribe of Indians

known as the "Quapaws." The Commissioner of Indian Affairs feels that there ought to be authority granted to the Interior Department to relieve restrictions as to individual members of the Quapaw tribe. Last year we passed a general law giving the Interior Department authority to remove restrictions, but it does not apply to any Indians in the Indian Territory, and so I offer the amendment which I send to the desk, to come in on page 34, after line 23.

The VICE-PRESIDENT. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 34, after line 23, it is proposed to insert the following:

"That the act of May 8, 1906 (34 Stat. L., pp. 182, 183), entitled 'An act to amend section 6 of an act approved February 8, 1887, entitled 'An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes,' be, and the same is hereby, amended by inserting the words 'of the Five Civilized Tribes' between the word 'Indians' and the word 'in' in the last line of the third proviso; so that this proviso shall read: 'And provided further, That the provisions of this act shall not extend to any Indians of the Five Civilized Tribes in the Indian Territory.'"

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. CLARK of Wyoming. I should like to ascertain what is the purpose of the amendment.

Mr. LODGE. Where does the amendment come in?

Mr. CLAPP. To the Senator from Massachusetts [Mr. LODGE] I will state that the amendment comes in after line 23 on page 34, and to the Senator from Wyoming [Mr. CLARK] I would state again that last year we passed a law known as the "Burke law," which authorizes the Secretary of the Interior, when he finds any Indian competent to manage his affairs, to release his restrictions. But under the phraseology of the law and the construction of legislation in regard to the Indian Territory it would not be applicable to the Quapaws of the Indian Territory. The amendment desired by the Commissioner of Indian Affairs, which I have submitted, inserts the words "of the Five Civilized Tribes;" so that the Burke bill will read that it will not apply to any Indian of the Five Civilized Tribes.

Mr. CLARK of Wyoming. That, then, would apply to the Indians of the Quapaw Agency?

Mr. CLAPP. It would allow the Quapaws to be released by the Department.

Mr. CLARK of Wyoming. Mr. President, for the reason—while I do not want to create any discussion—that the Indians under the Quapaw Agency have no homesteads and that this amendment would allow the Secretary of the Interior to release them so that they can sell their lands, homesteads and all, I make the point of order against the amendment.

Mr. CLAPP. Just a moment, if the Senator please, before the point of order is made. I should like to insert in the RECORD a communication from the Department.

The VICE-PRESIDENT. Without objection, the communication will be printed in the RECORD.

Mr. McCUMBER. I ask that it may be read.

Mr. CLAPP. Very well; let it be read.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE COMMISSIONER OF INDIAN AFFAIRS,  
Washington, January 30, 1907.

DEAR SENATOR CLAPP: The inclosed amendment I should be glad to have you put into your pocket, when the appropriation bill comes up in the Senate, for use in case the fight upon the removal of restrictions clause should prove strong enough to knock that clause out. If it went out, the amendments which I had suggested to it would, of course, go by the board, but in that case I should be glad if you would propose the amendment inclosed. The Quapaw Indians ought to have been provided for in what we know as the Burke law, but everybody doubtless had his mind so fixed upon the Five Civilized Tribes that no one thought of the Quapaw Agency, which includes all the other fragments of tribes now in the Indian Territory. If anyone had thought of it in time the Indians tributary to the Quapaw Agency would undoubtedly have been excepted from the sweeping provision excepting all Indian Territory Indians. My amendment will confine the exception to the Five Civilized Tribes. The Indians tributary to the Quapaw Agency are in just the same condition to all intents and purposes as the reservation Indians in South Dakota and other parts of the country, except that there is a very much larger percentage of them who are entirely capable of taking care of themselves; and it seems especially hard that, when all the other similar tribes and parts of tribes in the country have the privilege of getting their lands in fee on proving satisfactorily their capacity to care for their affairs, this one little group should be left out in the cold.

Sincerely, yours,

F. E. LEUPP,  
Commissioner.

Hon. MOSES E. CLAPP,  
United States Senate, Washington, D. C.

The VICE-PRESIDENT. The point of order has been made against the amendment; and the Chair sustains the point of

order. The Secretary will read the next amendment passed over.

The next amendment passed over was, on page 37, beginning in line 13, to insert the following:

That no election for city, town, or municipal officers authorized by the laws now in force in the Indian Territory shall be held under and in pursuance of said laws in the year 1907; and all persons heretofore elected to any of said offices now serving and performing the duties thereof shall continue to serve in their respective offices and perform all the duties thereof, with all the power and authority conferred upon them by the laws now in force in said Territory, until such offices are terminated by the laws of the State of Oklahoma or until the officers provided for under the constitution of said State are duly elected and qualified: *Provided*, That in case no constitution is adopted and ratified in accordance with the provisions of an act for the admission of Oklahoma and Indian Territory into the Union as a State, approved June 16, 1906, then said officers shall continue to discharge the duties of their respective offices until their successors are duly elected and qualified.

The amendment was agreed to.

The next amendment passed over was, on page 38, after line 22, to insert the following:

An act of Congress approved April 26, 1906 (34 Stat. L., p. 137), entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in Indian Territory, and for other purposes," is hereby amended by striking out on line 13 the words "And the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date" and inserting the words "And the Secretary of the Interior shall have jurisdiction after said date to adjudicate any and all cases then pending" in lieu thereof.

Mr. LONG. I make the point of order against that amendment that it is general legislation.

Mr. McCUMBER. Will the Senator withhold the point of order until I can have read a very short communication in opposition to the amendment?

Mr. LONG. Certainly.

The VICE-PRESIDENT. The Secretary will read as requested by the Senator from North Dakota, if there be no objection.

The Secretary read as follows:

NATIONAL HOTEL,  
Washington, D. C., February 7, 1907.

DEAR SIR: Representing the Cherokee Nation, through its principal chief, I desire to most earnestly protest against the provision in the Indian appropriation bill, now pending before Congress, beginning in line 23 on page 38 and ending with line 8 on page 39, providing for the amending of an act of Congress approved 26th day of April, 1906 (34 Stat. L., p. 137), entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," the reason being, if this amendment prevails, it will open up the question of the application for citizenship and prolong the completion of the rolls of the Cherokee tribe of Indians and necessitate the tribe incurring a great expense and hardship unjustly. There should be no provision of law which would allow additional applications to citizenship to be heard, as all have had ample opportunity to present their applications. As we have no representative on the floor of the Senate, I appeal to you to raise an objection to this provision and see if you can not defeat its passage.

Very respectfully,

JAMES S. DAVENPORT,  
Special Representative of the Cherokee Nation.

Hon. PORTER J. McCUMBER,  
United States Senator, Senate Chamber.

Mr. CLAPP. Mr. President, that simply illustrates how easy it is for people to make mistakes when they talk of things about which they do not know anything. There is nothing in this provision that would open up any roll or allow any application to be made. In justice to the committee I want to state that last year we passed a law which terminates on the 4th of March the jurisdiction of the Commissioner and the Department in the Indian Territory. Not knowing whether they could complete their work, the committee took it up with the Commissioner, who said he could complete his work, but, at the suggestion of the Department of the Interior, it was thought best to extend the time within which to decide pending cases. However, upon a further consideration of the matter, it would appear if cases have been decided by the Commissioner by the 4th of March the decisions will stand without any further action. Consequently, there is no necessity for the amendment.

The VICE-PRESIDENT. The Chair sustains the point of order. The next amendment passed over will be stated.

The next amendment passed over was, under the heading "Choctaws," beginning in line 16, page 39, to insert the following:

That the Court of Claims is hereby authorized and directed to hear and adjudicate the claims against the Choctaw Nation of Samuel Garland, deceased, and to render judgment thereon in such amounts, if any, as may appear to be equitably due. Said judgment, if any, in favor of the heirs of Garland, shall be paid out of any funds in the Treasury of the United States belonging to the Choctaw Nation, said judgment to be rendered on the principle of quantum meruit for services rendered and expenses incurred. Notice of said suit shall be served on the governor of the Choctaw Nation, and the Attorney-General of the United States shall appear and defend in said suit on behalf of said nation.

Mr. CURTIS. I make the point of order against that amendment, that it is a private claim.

The VICE-PRESIDENT. The Chair thinks that the amendment is repugnant to the provisions of the rule.

Mr. LODGE. It provides for a claim.

Mr. KEAN. Yes; it provides for a private claim.

Mr. CLAPP. While I do not care to contest the point of order, I desire to remind the Senate that the Senate has decided several times, through its presiding officer, that where a claim is not against the Federal Government, but against an Indian tribe, the point of order was not well taken.

Mr. LODGE. That was decided, if the Senator will allow me, where it was in regard to a treaty set forth in the amendment, as the rule provides.

Mr. KEAN. The Senator from North Dakota has the ruling here.

Mr. LODGE. Moreover, I will call the Senator's attention to the fact that this is a charge against the United States Treasury and unestimated for.

Mr. McCUMBER. I desire to read at this point, and call the Chair's attention to the holding of the Chair three years ago, in 1904, upon a claim somewhat similar to this. I will cite it. It is the Sypher claim. I read from page 3548 of part 4, volume 38, of the CONGRESSIONAL RECORD, Fifty-eighth Congress, second session. It reads as follows:

Mr. STEWART. I now ask that the reading of the bill be continued.

That was the Indian appropriation bill.

The PRESIDENT pro tempore. The Chair calls the attention of the Senate to the item on page 53 of this bill, beginning in line 10 and ending with line 19, for payment to J. Hale Sypher of \$50,000. The point of order was made by the Senator from New Jersey [Mr. KEAN]. The Chair is of opinion that the private claim, under Rule XVI barred from appropriation bills, must necessarily be a claim against the Government of the United States which would take money from the United States Treasury. This item is not such a claim. It is neither against the Government nor does it take Government money from the Treasury. In the opinion of the Chair, the committee having jurisdiction of the subject had a right to report this item favorably and thus make it in order. So the Chair overrules the point of order raised by the Senator from New Jersey.

Of course, that simply covers the one proposition, that where it is a private claim and the money is not to be taken from the Treasury of the United States, but out of funds belonging to Indian tribes, it is not subject to this rule. I have not looked into the case to see whether the other rule will apply.

Mr. CLAPP. I think it was when the Senator from Maine [Mr. FRYE] was in the chair that it was held that the rule as to estimates did not apply when the charge was against some Indian tribe and not against the Treasury of the United States. I am not particular about this matter.

The VICE-PRESIDENT. The Chair will submit to the Senate the question, Is the amendment in order? [Putting the question.] The noes seem to have it; the yeas have it, and the amendment is decided to be out of order. The next passed-over amendment will be stated.

Mr. McCUMBER. Before we go to the next amendment, my attention has been called to the amendment on page 40, commencing with line 3. I do not know whether objection has been made to it.

Mr. CLAPP. It went out.

The VICE-PRESIDENT. The amendment went out on a point of order.

Mr. McCUMBER. I was requested to call the attention of the Chair to the fact that this is one of those cases coming within the rule that should not go out on a point of order on the ground that it appropriates money out of the Treasury, because it does not so appropriate; and also that it is in order on the further ground that it is carrying out the provisions of a treaty. However, the same objection, I suppose, would apply to this amendment that applied to the one which has just been ruled out, and so I do not feel like pressing it further.

Mr. HALE. If the Senator from Minnesota does not object, as I am called from the Chamber, I should like to have the amendment on page 52 considered, all the more because it is precisely such an amendment as the Senate has just decided to be not in order. I refer to the amendment on page 52, beginning in line 10.

Mr. CLAPP. We may just as well take it up now.

Mr. HALE. Yes.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 52, after line 9, it is proposed to insert:

For the balance and final payment due the loyal Creek Indians on the award made by the Senate on the 16th day of February, 1903, said award being made in pursuance of the provisions of section 26 of an act to ratify and confirm an agreement with the Muskogee, or Creek, tribe of Indians, and for other purposes, approved March 1, 1901, the sum of \$600,000; such payment to be made in accordance with the terms and provisions of said award as the same appears on page 2252 of the CONGRESSIONAL RECORD, volume 36, part 3, Fifty-seventh Congress, second session. And the Secretary of the Treasury is hereby authorized

to pay, under the direction of the Secretary of the Interior, to the loyal Creek Indians and freedmen named in articles 3 and 4 of the treaty with the Creek nation of Indians of June 14, 1866, the said sum of \$600,000, to be paid to such Indians and freedmen only whose names appear on the list of awards made in their behalf by W. B. Hazen and F. A. Field, as commissioners on behalf of the United States to ascertain the losses of said Indians and freedmen as provided in said articles 3 and 4; and such payments shall be made in proportion of the awards as set out in said list: *Provided*, That said sum shall be accepted by said Indians in full payment and satisfaction of all claim and demand growing out of said loyal Creek claims, and the payment thereof shall be a full release of the Government from any such claim or claims: *Provided, however*, That if any of said loyal Creek Indians or freedmen whose names are on said list of awards shall have died, then the amount or amounts due such deceased person or persons, respectively, shall be paid to their heirs or legal representatives: *And provided further*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to first withhold from the amount herein appropriated and pay to S. W. Peel, of Bentonville, Ark., the attorney of said loyal Creeks and freedmen, a sum equal to 10 per cent of the amount herein appropriated, as provided by written contracts between the said S. W. Peel and the claimants herein, the same to be payment in full for all legal and other services rendered by him, as provided by said contracts, or those employed by him, and for all disbursements and other expenditures had by him in behalf of said claimants, in pursuance of said contract: *And provided further*, That said Secretary is authorized and directed to pay to David M. Hodge, a Creek Indian, of Tulsa, in the Creek Nation, a sum equal to 5 per cent of the amount herein appropriated, which payment shall be in full for all claims of every kind made by said David M. Hodge, or by those claiming under him, by reason of any engagement, agreement, or understanding had between him and said loyal Creek Indians.

Mr. HALE. I make the same point of order that the Senator from Kansas did on the other amendment.

The VICE-PRESIDENT. The Chair sustains the point of order. The next passed-over amendment will be stated.

The SECRETARY. At the top of page 43 it is proposed to insert:

That the value of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw nations, whether leased or unleased, shall be ascertained, under such rules and regulations as may be prescribed by the Secretary of the Interior and approved by the President, by a board of three appraisers to be appointed by the Secretary of the Interior, subject to the approval of the President of the United States. Said appraisers shall return to the Secretary of the Interior a report sworn to by them, showing the value of the surface of the lands embraced within said segregations; and such appraisal shall be subject to the approval of the Secretary of the Interior.

The Secretary of the Interior, under rules and regulations to be approved by the President of the United States, may sell the surface of said segregated lands, after six months' notice of said sale, in tracts of not more than 160 acres to each purchaser, but at not less than the appraised value. Such land shall be sold on such terms as may be fixed by regulations as above provided for, but all such lands as are unleased at the date of the approval of this act shall be sold subject to the right of any purchasers of the mineral right to mine thereunder, together with the right of ingress and egress and with immunity from damages occasioned by subsidence, and to the right of said mineral owner to acquire a sufficient amount of the surface, not exceeding 20 per cent of the said surface area, for the necessary surface works and operation of said mine, the value of said surface area for said mining purposes to be fixed by agreement between the parties in interest, or in case of disagreement said price to be fixed by three persons, one of whom shall be chosen by the owner of the surface, one by the owner of the mineral right, and the third by the two so chosen, and if they do not agree as to a third, then such third appraiser to be appointed by the judge of the United States court for the district in which such land is situated, and a decision of a majority of said three shall be conclusive as to the value thereof; and all conveyances of the surface of said lands shall contain said reservation of said mineral rights as above set forth.

And as to the sale of the surface of leased lands, the same shall be sold subject to the rights of such lessees to mine thereunder, together with the right of ingress and egress and with immunity from damages occasioned by subsidence, and to the right of said mineral owner to acquire sufficient amount of the surface, not exceeding 20 per cent of the said surface area thereof, for the necessary surface work and operation of said mine, the value of said surface area for said mining purposes to be fixed by agreement between the parties in interest, or in case of disagreement said price to be fixed by three persons, one of whom shall be chosen by the owner of the surface, one by the owner of the mineral rights, and the third by the two so chosen, and if they do not agree as to a third, then such third appraiser to be appointed by the judge of the United States court for the district in which such land is situated, and the decision of a majority of said three shall be conclusive as to the value thereof; and also subject to any rights covered by such leases and such rights as are granted to lessees under the provisions of an act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1905, and for other purposes," approved April 21, 1904. All conveyances of the surface of said land shall contain said reservations of said mineral rights as above set forth.

Mr. TILLMAN. The amendment clearly changes existing law, and as we are making points of order on all of these amendments, I think this had better go out. At least I make the point of order.

Mr. CLARK of Wyoming. I hope the Senator from South Carolina with withdraw the point of order for a moment until an explanation can be made in regard to the amendment. Of course I understand that the purpose of points of order under the rule is to prevent legislation which ought not to be made or that all legislation generally shall be conducted in due form and regular order. But it is oftentimes the case that pressing needs require that legislation be had, even if not in strict conformity

with the rules of the Senate. I hope the Senator will withdraw his point of order on this amendment.

The Senate, I think, very well understands to what this amendment refers. It refers to the great area of segregated coal lands in the Indian Territory, about which there was very much discussion a year ago, as the Senator will remember. The amendment proposes, in accordance with the recommendation of the committee, that the surface of the land which is not subject to allotment, being the only part of the Indian Territory that is reserved from allotment, may be sold in single tracts of 160 acres each, reserving the mineral under the land. The city of South McAlester, of thirteen to fifteen thousand people, and numerous other cities and towns are located on these segregations. Towns have grown up around the coal mines.

Mr. TILLMAN. Right here I call the Senator's attention to the provision which permits the surface to be bought by the mine owner to the extent of 20 per cent.

Mr. CLARK of Wyoming. That, of course, is to protect the buildings.

Mr. TILLMAN. Did the Senator ever see a coal mine where the buildings and the entry to the mine would take a fifth of that—4 per cent even?

Mr. CLARK of Wyoming. If the Senator will read the text he will discover that it establishes a maximum of 20 per cent. It says not to exceed 20 per cent. I have no desire, of course, to have in here any more than would be needed for the operation of the mine, and if the Senator thinks 10 per cent is better—that is, 16 acres in any 160 upon which the mine is located—I, of course, would have no objection to that amendment.

Mr. LA FOLLETTE. Mr. President—

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. With pleasure.

Mr. LA FOLLETTE. If I remember rightly, the average lease in the Indian Territory comprises something like 3,000 acres of land.

Mr. CLARK of Wyoming. How much?

Mr. LA FOLLETTE. Something like 3,000 acres.

Mr. CLARK of Wyoming. Nine hundred and sixty acres, I believe.

Mr. LA FOLLETTE. Nine hundred and sixty acres?

Mr. CLARK of Wyoming. Yes.

Mr. LA FOLLETTE. And are not several of those leases consolidated, so that there is considerably more than 960 acres under the control of one operating company?

Mr. CLARK of Wyoming. Oh, yes; an operating company is not limited to one lease—with the approval of the Secretary of the Interior.

Mr. LA FOLLETTE. Twenty per cent would make it possible to acquire quite a body of the surface of this land.

Mr. CLARK of Wyoming. It would make it possible to acquire a body of the surface if the Secretary of the Interior fails entirely in his discretion and duty. Of course there is no possibility of selling the surface of this land over these leased mines without protecting the lessee. The only question is how he can best be protected.

Mr. TILLMAN. My main reason for interposing the point of order is that the State of Oklahoma will have here some representatives when we meet again, and they will be more widely interested in the proper disposition of the lands and the care and statesmanship which shall be displayed in connection with those lands than anybody else. We may just as well await the arrival of the two Senators from that State, who will come here representing all of its interests and necessarily better informed as to the conditions there than any of us possibly can be. I think this can very well wait.

Mr. CLARK of Wyoming. Of course, if the Senator insists upon his point of order—

Mr. TILLMAN. I do not want to insist upon it if it can be shown—

Mr. CLARK of Wyoming. I want to say to the Senator that I am particularly anxious about this amendment, because I think it is the only one in the whole bill which the committee that visited the Indian Territory, the Indian Committee as a committee, the Secretary of the Interior, and the President of the United States all approve. The situation is such that this legislation ought to be had in regard to the surface of this land, in my opinion.

Mr. STONE. I should like to ask the Senator from Wyoming a question, if he will permit me.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Missouri?

Mr. TILLMAN. With pleasure.

Mr. STONE. Is it not a fact that the prices which probably will be received for the surface of these lands will be very

much below their real value because of the easement right which would obtain to the miner when the land was finally opened?

Mr. CLARK of Wyoming. Giving my individual opinion, I think not. I will say to the Senator from South Carolina and to the Senator from Missouri that it was the insistent claim of the Indian tribes, the Choctaws and Chickasaws, through their tribal authorities, that this land by every rule of right and equity ought to be sold to the highest bidder for cash.

Mr. TILLMAN. Including the mineral?

Mr. CLARK of Wyoming. Including the mineral. The committee could not bring themselves to that view of the matter. The Indian tribes thought it would bring more money that way. The Indian Committee thought it would not. We believed that whatever can be secured for the surface of this land will be substantially velvet to the Indians, and that a larger amount will be secured by selling the surface and the mineral separately. We thought that the time was ripe and that the necessity existed for the disposal and utilization of the surface at this time. We thought that so many questions of value and public policy and good to the Indians and good to the new State intervened that it was not the proper thing for Congress at this time to take up any question connected with the disposal of the mineral under the surface.

So we prepared this amendment for the disposition of the surface rights under what we considered thorough supervision and safeguards by the terms of the amendment, and we sincerely hope that this legislation will be enacted at this time. Those concerned near the land, the necessities of the cities and towns, and the advisability of putting the land in cultivation has appealed to everyone, I think, who has investigated the matter with any degree of care. With that statement, I am willing to submit the matter.

Mr. STONE. Will the Senator permit me for a moment?

Mr. CLARK of Wyoming. Certainly.

Mr. STONE. I should like to ask the Senator a question. It has been represented to me in the last few days that the Indians who own these lands are very much opposed to this disposition of the surface. Is that a fact?

Mr. CLARK of Wyoming. It is a fact that the Choctaw and Chickasaw nations, acting through their tribal authorities, Governor Johnson and Governor McCurtain, and others, are opposed to this disposition of the land. They maintain their right to dispose of these 500,000 acres, which are segregated, in any way that they choose. Abstractly speaking, I am frank to say I believe they are right. If they own this land they should be allowed to go into the market and sell it to whomsoever they please, whether it be one man or ten men or a corporation or any aggregation of capital that is willing to purchase it. But the committee could not bring itself to the conclusion that that was for the best interest of the Indian or of the country, or that it would bring more money into the Indian treasury. Consequently the committee have recommended the plan which appears in this amendment.

Mr. STONE. One other question. The Senator may have answered it. I was out of the Chamber for a few minutes, and the matter about which I inquire may have been answered already. Is it not a fact that the convention now in session in Oklahoma has provided for a committee to confer with the Indians with a view to the purchase of these lands by the State of Oklahoma?

Mr. CLARK of Wyoming. It has. I think I have also that memorial, which was presented here by me on January 16. It is a memorial passed by the constitutional convention of the proposed State of Oklahoma. [A pause.] No; this is not it. I have not the memorial with me. But, as I understand, there was a resolution passed by the constitutional convention providing for a committee to investigate the question of these coal lands, with a view to reporting to their first legislature as to the advisability and possibility of the State of Oklahoma acquiring these lands by purchase from the Indians, to be used as a basis for a school fund or for other matters. I thought I had the memorial with me, but I see this one is relative to another matter.

Mr. TILLMAN. In view of the importance of this matter, and in view of the fact that it has been brought to the attention of the Senate recently that the railroads and capitalists have monopolized the coal fields and have already a monopoly of the anthracite field and a large portion of the bituminous field, I feel that I must insist on the point of order and wait until Oklahoma's representatives get a chance to come here and speak. No harm will be done by waiting six months or a year.

Mr. CLARK of Wyoming. I will say to the Senator, in leaving the subject, that one motive that the committee had in mind—

Mr. TILLMAN. I am not impugning the motive of anybody. Mr. CLARK of Wyoming. No; that is not it. The Senator will hear me for a moment.

Mr. CLAPP (to Mr. CLARK of Wyoming). Use the word "reason" instead of "motive."

Mr. CLARK of Wyoming. I will accept the suggestion. One reason why the committee make this recommendation for the disposition of the surface of the land in tracts of not more than 160 acres was to prevent fastening upon the new State the possibility of monopoly in the lands in that locality. Here are 500,000 acres of this land in the open, not subject to allotment to the individual Indian. The committee believed that unless some step was taken now the entering wedge would be made between now and the next session of Congress whereby a monopoly would be created and enter upon the purchase and possession of those lands.

Mr. TILLMAN. If the Senator can indicate how a monopoly can work when there is no law under which anything can be done, I should like to hear it.

Mr. CLARK of Wyoming. A monopoly sometimes begins to work unknown to anyone.

Mr. TILLMAN. I am willing myself to wait until Oklahoma has two Senators here and Representatives in the other end of the Capitol who come from the field and know all about it and are more interested than anybody else. In view of the fact that last spring it was brought out that coal within 150 miles of these very coal fields was being sold at \$8 a ton, by reason of the manipulations and monopolies and one thing or another in vogue out there, I insist upon the point of order.

Mr. CLARK of Wyoming. I am perfectly content, and I shall only hope that the wish of the Senator from South Carolina to avoid monopoly will not be defeated by the rejection of this amendment.

The VICE-PRESIDENT. The Chair sustains the point of order. The next passed-over amendment will be stated.

The SECRETARY. On page 45, after line 16, it is proposed to insert:

That in addition to the towns heretofore segregated, surveyed, and scheduled in accordance with law the Secretary of the Interior may segregate and survey, within that part of the Choctaw and Chickasaw nations, Indian Territory, heretofore segregated as coal and asphalt land, such other towns as are now in existence or which he may deem it desirable to establish. He shall cause the surface of the lots in such towns to be appraised, scheduled, and sold at the rates, on the terms, and with the same character of estate as is provided in section 29 of the act of Congress approved June 28, 1898 (30 Stat. L., p. 495), under regulations to be prescribed by him: *Provided further*, That the provisions of section 13 of the act of Congress approved April 26, 1906 (34 Stat. L., p. 137), shall not apply to town lots: *And provided further*, That the Secretary of the Interior may, in his discretion, cause the lots in any town within the boundaries of the Five Civilized Tribes to be reappraised as of the date of the original appraisement made by the Choctaw town-site commission, that payments already made on lots therein shall be credited on the basis of the reappraisement, and that payments not heretofore made on installments due or past due under the original appraisement shall be superseded by the amounts fixed under the new appraisement, and payments shall begin and date from thirty days after the service of notice of the appraisement: *And provided further*, That the Secretary of the Interior may also survey, appraise, and sell as town lots areas heretofore segregated as additions to towns within the boundaries of any of the Five Civilized Tribes, but which have not heretofore been surveyed, appraised, or sold, the manner of scheduling and the rates at which sold to conform to existing law concerning those subjects in the respective nations; and the sum of \$15,000, to be immediately available, is hereby appropriated for the expenses incident to the completion of the town-site work.

The VICE-PRESIDENT. Without objection, the amendment is agreed to.

Mr. STONE. Mr. President, while I was necessarily absent from the Chamber an amendment on page 37, relating to elections, was taken up and agreed to. Is that correct?

The VICE-PRESIDENT. It was agreed to.

Mr. STONE. I do not think I want to make a point of order against the amendment, but I should like to call the attention of the Senate to the fact that there are some rather vigorous protests against this clause, coming from the Indian Territory to me at least. I am not sure but that they are well founded.

Mr. LONG. Mr. President—

The VICE-PRESIDENT. Does the Senator from Missouri yield to the Senator from Kansas?

Mr. STONE. I do.

Mr. LONG. I myself have heard no objections to this provision from the Indian Territory. I should like to have the Senator state what the objections are that are made to it.

Mr. STONE. I will ask the Secretary to read a short statement from the Morning Democrat, of Ardmore, which expresses very well the objections against this provision that have been sent to me in letters and telegrams.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

[From the Ardmore, Ind. T., Morning Democrat, January 29, 1907.]

In order to defeat the wishes of the people and fasten themselves upon an unwilling public, an organization of municipal officeholders has been perfected in Oklahoma and Indian Territory and have hired attorneys lobbying a bill through Congress to continue them in office until 1908, and longer if the constitution should be defeated or turned down by the President. Below we reproduce a letter and a copy of the bill sent Chief of Police Buck Garrett. Judge Galt and Chief Garrett are the only Ardmore officials seen by the Democrat on the subject, and they are in favor of an election and say they do not want office except by the votes of the Democratic party and the people who know their records as officials:

"MUSCOGEE, IND. T., January 22, 1907.

"DEAR SIR: We are desirous of having the inclosed provision inserted in some bill now before Congress, so that those now holding city offices in Indian Territory may hold over until the election under the constitution of the State of Oklahoma.

"It will be necessary to have help from other towns to meet the expense of paying the fees of the attorneys already employed and now in Washington working on this matter. The larger cities should bear most of this expense. A bill containing the inclosed provision has been introduced and referred to the Committee on the Territories. We must watch it and not let it die in the committee room.

"We feel that your town should help defray the expense in this matter to the amount of \$25. It is requested that you make the collection and remit this sum at once to

"J. B. CAMPBELL,  
"City Recorder, Muscogee, Ind. T."

Mr. STONE. I can not see why there could not be an election in the spring and let the people of the towns select their own officers, instead of continuing by a legislative act those who are now in the possession of the offices.

Mr. LONG. Is the Senator aware of the fact that legislation similar to this was enacted last year as to county officers in Oklahoma, in order to avoid the expense of an election there, when the constitutional convention was about to be held? This amendment will be only operative if a constitution is adopted. If the constitution should for any reason fail, then the successors to the officers can be elected.

Mr. STONE. Elected when? At the next regular election as provided by law?

Mr. LONG. They are to hold until their successors are duly elected and qualified.

Mr. STONE. But they can not be duly elected and qualified until the time shall come for a regular election under the law. If for any reason the constitution should fail and the State should not be admitted, the persons now in office would continue to exercise the functions of their offices under the operation of this provision without any reference to the wishes of the people themselves.

Mr. LONG. I think it is not open to that construction, but can not the Senator suggest an amendment that will make more definite that provision?

Mr. STONE. The only amendment I could suggest would be to eliminate it, to take it out, and let the officers be elected this spring.

Mr. LONG. The election for the approval or rejection of the constitution will be held sometime this spring, shortly after the city officers are to be elected.

The constitution, if adopted, will go into force by the middle of the summer, and then municipal officers and county officers must be elected. This will require two elections for municipal officers within the next six months if this amendment is not adopted.

Mr. STONE. I move to reconsider the vote by which the amendment was agreed to. We will then see what is the sense of the Senate in regard to it.

The motion to reconsider was agreed to.

Mr. TILLMAN. I do not want to interfere, but I wish to call the attention of the Senator from Missouri to line 16. There is a direct and positive statement or prohibition here:

That no election for city, town, or municipal officers authorized by the laws now in force in the Indian Territory shall be held under and in pursuance of said laws in the year 1907.

That forbids any election to be held. If the constitutional convention should want to change the condition and provide for an election all along the line for county officers, municipal officers, and everything else when the new constitution goes into effect, why should they not do it?

Mr. LONG. It is to avoid the expense of an election in April of this year, when the constitution will possibly be voted upon and approved a month or two later, and then the officers provided for under that constitution will be elected. It is to avoid the expense of two elections for city officers within the next few months that this amendment has been reported.

Mr. STONE. There is no doubt of the purpose the committee had in view.

Mr. TILLMAN. Nobody is impugning the motive of the committee or saying anything about that. It is just a question as

to whether, after the statement read from the desk of this lobby of municipal officeholders, and all that, we will allow them to hold over until year after next or not.

Mr. STONE. As a member of the committee supporting the bill, I do not feel disposed to make any point of order against the amendment.

Mr. BERRY. Will the Senator from Missouri yield to me?

Mr. STONE. Certainly.

Mr. BERRY. I make the point of order against it that it is legislation and not in order.

The VICE-PRESIDENT. The Chair is of opinion that the amendment is in contravention of the rule, and sustains the point of order. The next amendment passed over will be read.

The SECRETARY. The next amendment of the Committee on Indian Affairs passed over is on page 48 of the bill, beginning at line 5, and reads as follows:

That the Secretary of the Interior is hereby authorized and directed to transfer from the freedman roll to the roll of citizens by blood of the Choctaw and Chickasaw nations the name of any person who is of Choctaw or Chickasaw Indian blood on the side of either parent, as appears from the examination records prepared by the Commission to the Five Civilized Tribes under the act approved June 28, 1898, or any tribal roll, or any field card prepared by the Commission or the Commissioner to the Five Civilized Tribes, and other evidence shall be taken only in cases where the identity or Indian blood of such person is denied by the tribal authorities.

Mr. TILLMAN. Mr. President, I make the point of order on the amendment.

Mr. McCUMBER. Mr. President, I do not know whether a point of order is to be made upon this amendment, but—

Mr. TILLMAN. I have just made it.

Mr. McCUMBER. If the Senator wants to have the amendment discussed it is a question that may require considerable discussion.

Mr. TILLMAN. I would prefer not to discuss it. I certainly am getting very tired of this Indian appropriation bill and would like to get through with it. Where a point of order will clearly lie I do not see why we should discuss it.

Mr. McCUMBER. I am not certain that the point of order will lie against it.

Mr. TILLMAN. Let the Chair rule, and if he says it does not then we will discuss it on its merits.

Mr. McCUMBER. My question was directed to the Senator in charge of the bill, and I was about to suggest to him if there is going to be any discussion on this amendment he allow it to go over until to-morrow.

Mr. CLAPP. I presume the Senator from South Carolina is going to press his point of order, and if he is going to do that we may as well dispose of it now as at any other time.

Mr. TILLMAN. I make the point of order, Mr. President, and I should like to have the ruling of the Chair.

Mr. BERRY. That it is general legislation.

Mr. TILLMAN. That it is general legislation. It changes existing law.

The VICE-PRESIDENT. The Chair sustains the point of order. The next amendment passed over will be stated.

The SECRETARY. On page 48, beginning at line 17, the Committee on Indian Affairs reported to insert the following:

That Laura Secondine and William Brown and David Muskrat, and others, Cherokee citizens, who have brought three several suits in the supreme court of the District of Columbia, which are now pending there, to test the validity of certain acts of Congress affecting the allotment of the lands and the distribution of the tribal funds and other property of the Cherokee Nation, or restricting the right of alienation or other disposition of lands allotted to them and other Cherokee citizens, be, and they are hereby, authorized and empowered to institute their several suits in the Court of Claims to question the validity of said acts, making the United States defendant thereto, which said suits shall be prosecuted by them for and on behalf of all Cherokee citizens entitled to the allotment of lands and the distribution of funds under the act of July 1, 1902, entitled "An act to provide for the allotment of lands of the Cherokee Nation, for the disposition of town sites therein, and for other purposes."

And jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, to hear, determine, and adjudicate each of said actions; and said court shall not be limited to the consideration of questions as now presented in the said suits filed in the District of Columbia, but shall consider all questions which may be presented in said suits affecting the validity of said acts.

All suits brought hereunder shall be brought within ninety days from the date of the approval of this act; and for the speedy disposition of the questions involved, preference shall be given to the same in said courts and by the Attorney-General, who is charged with the defense of said suits.

Upon the rendition of final judgment in any of said cases, the Court of Claims shall determine the amount to be paid the attorneys employed in the prosecution thereof for services and expenses, and shall render judgment therefor in their behalf, which shall be paid out of the funds in the United States Treasury belonging to the beneficiaries under the said act of July 1, 1902.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. KEAN. I think it is general legislation.

Mr. CLARK of Wyoming. I see indications that the Senator from New Jersey is going to interpose a point of order. I should like to make a statement before that is done.

Mr. KEAN. Certainly; I withhold the point of order.

Mr. CLARK of Wyoming. Mr. President, by way of explanation I will say that this amendment could perhaps if adopted go a long way toward settling some of the vexed questions of law about which we have been having some difficulty within the last two or three days, to wit, the constitutionality of the McCumber amendment and certain other provisions of the law which we passed to which the McCumber amendment was attached.

Laura Secondine, William Brown, David Muskrat, and others, brought three suits which are now pending in the District of Columbia, testing the validity of these acts. To these suits demurrers were interposed by the Government of the United States. The condition of those suits now is that by stipulation further action is delayed until Congress shall have an opportunity to act upon this proposition. If this matter be referred to the Court of Claims, with instructions for speedy action and with opportunity for appeal to the Supreme Court of the United States, it is more than likely that very early action will be had upon those legal propositions.

In that view of the case, I think perhaps that while the amendment might be subject to a point of order as intimated, the benefit to be derived from it would so far outweigh that it ought to remain in the bill, and the suits proceed along the line of this amendment.

Mr. McCUMBER. Will the Senator state wherein the amendment, which he designates as the McCumber amendment, will be questioned in this proceeding? How can it possibly arise in the three cases referred to?

Mr. CLARK of Wyoming. It arises in the Laura Secondine case, as I remember it, by reason of the fact that she is upon the full-blood roll. There are two questions in her case. The petition in the case is directed against the McCumber amendment, by which her right to alienate was thrown over twenty-five years. Just the particular point in each of the three cases I am unable to state. It is all in the memorial which was presented by the Senator from Kansas [Mr. LONG]. All of the cases go to the particular point we have had so much difficulty about, and which I should be glad to have settled.

The VICE-PRESIDENT. Does the Senator from New Jersey insist upon his point of order?

Mr. KEAN. He does not.

The VICE-PRESIDENT. The point of order is withdrawn. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment passed over will be stated.

The SECRETARY. On page 47 of the bill—

Mr. LODGE. Did the Secretary read the amendment on page 50?

The VICE-PRESIDENT. The amendment about to be read is one that was offered on the floor. It does not appear in the printed bill. The amendment will be read.

The SECRETARY. On page 47 the Senator from Minnesota [Mr. CLAPP] proposed an amendment to come in after line 18. It reads as follows:

That all restrictions as to the sale and incumbrance of the south-east quarter of the northwest quarter of section 13, township 11, range 9 east, in the Indian Territory, the same being the homestead heretofore allotted to Nocus Fixico, Creek allottee No. 603, are hereby removed.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. LONG. Mr. President, as I remember, the senior Senator from Wisconsin [Mr. SPOONER] made a point of order against this amendment, and in the light of his very interesting and instructive remarks this afternoon I call his attention to it.

Mr. SPOONER. I do not know whether my remarks were interesting; I can not imagine that they were instructive, and I do not know what point of order the Senator refers to.

Mr. LONG. The point of order in which it is proposed to remove the restrictions on the homestead of an Indian in the Indian Territory by special legislation.

Mr. SPOONER. Unless there is some explanation of it, I make the point of order against it.

Mr. CLAPP. Mr. President, the only explanation is that last year this was on the bill and the name was misspelled. It is simply for the purpose of making that correction that I made the formal offer of the amendment.

Mr. SPOONER. I have received a letter this afternoon from, I think, the husband of the lady who bought the land of the Indian. It is now a part of a town site. The Indian was paid a couple of thousand dollars or thereabouts for it. It is said

by her husband that that was enough and that the Indian got the money. Of course that is not an entirely disinterested source of information. He wants his wife's title perfected, and that is the object of this legislation.

I think Congress ought to be very careful about removing restrictions, especially about removing restrictions on homesteads; but it may be in truth that this matter ought to be corrected. I really do not know enough about it to say whether it should be done or not; and in order that it may be investigated a little further I will make the point of order. Time will not hurt it any.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. SPOONER. Certainly.

Mr. CULBERSON. The Senator from Minnesota stated that this same provision was in the bill of last year. I do not know whether he meant to imply that it was passed in the bill and became a law.

Mr. SPOONER. The name was wrong in the last bill.

Mr. CLAPP. It was spelled "N-o-c-o-s," when it should be "N-o-c-u-s."

Mr. CULBERSON. This is merely to correct a previous law already existing?

Mr. CLAPP. Yes; and under that law they sold the land. When they came to look the matter up they found the deed in this name, and some one down there sent it up here for correction.

Mr. SPOONER. Congress attempted to do it and failed.

Mr. CLAPP. I simply introduced the amendment to make the correction.

The VICE-PRESIDENT. Does the Senator from Wisconsin insist upon his point of order?

Mr. SPOONER. The Chair puts that question to me in rather a peculiar tone of voice, and I do not know but that I ought to withdraw it. I withdraw the point of order.

The VICE-PRESIDENT. The point of order is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK of Wyoming. I desire to ask the chairman of the committee a question. I have understood that, with the exception of this case, which is a mere correction, there is no individual restriction to be removed by this bill.

Mr. CLAPP. There is one restriction which the Department recommended and which we adopted the other day.

Mr. CLARK of Wyoming. I asked the question because I have replied to certain people who have written to me asking me to propose amendments that I thought it was inadvisable to propose them; that I did not think those things ought to be put on a general appropriation bill.

Mr. CLAPP. That has been the attitude of the chairman personally as to such applications, and he has not favored any special restriction by individual name.

The VICE-PRESIDENT. The next amendment passed over will be stated.

The SECRETARY. The next amendment passed over begins on line 5, page 50, and reads as follows:

That David Muskrat, Frank J. Boudinot, and J. Henry Dick, the executive committee of the Eastern Cherokees, through attorneys employed by them, shall have the right on behalf of the Eastern Cherokees to bring a suit in the Court of Claims and prosecute on behalf of said Eastern Cherokees their claim, if any they have, against the United States for money alleged by them to have been erroneously paid to the attorneys for the Cherokee Nation out of a fund of the Eastern Cherokees, the same being the fund created by appropriation made by act of Congress approved June 30, 1906, to pay the judgment of the Court of Claims, rendered May 28, 1906, in the consolidated cases of the Cherokee Nation, the Eastern Cherokees, and the Eastern and Emigrant Cherokees against the United States, numbered, respectively, 23199, 23214, and 23212, and either the said executive committee, on behalf of the Eastern Cherokees, or the United States shall have the right to appeal to the Supreme Court of the United States from any judgment rendered by the Court of Claims in said suit. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, any judgment which may be rendered in favor of the said Eastern Cherokees in said suit.

Said suit shall be filed within thirty days from the date of the passage of this act, and shall be prosecuted on behalf of the Eastern Cherokees in the name of their executive committee, as aforesaid, through attorneys employed by them, the compensation for expenses and services rendered in relation to said claim by the said attorneys to be fixed by the Court of Claims upon the termination of said suit.

Mr. WARNER. Mr. President, I interpose a point of order as to that amendment, first, that it is a private claim and that it is also obnoxious to the fourth subdivision of Rule XVI, which says that "No amendment \* \* \* shall be received to any general appropriation bill unless it be to carry out the provisions of an existing law or a treaty stipulation."

The VICE-PRESIDENT. The Chair sustains the point of order. The next amendment passed over will be stated.

The SECRETARY. The next amendment passed over is on page 51, beginning with line 13, and reads as follows:

That the Court of Claims is hereby authorized and empowered in the suit involving the claim of the intermarried white persons in the Cherokee Nation to share in the common property of the Cherokee people, and to be enrolled for such purpose (being Nos. 419, 420, 421, and 422 on the United States Supreme Court docket for October term, 1905) to hear and report to Congress its findings of fact as to the amount which should be paid the attorney and counsel of record for the Cherokee Indians by blood in said suit, in reimbursement of necessary expenses incurred in such proceedings and as reasonable compensation for services rendered in said proceedings, said compensation not to exceed 10 per cent of the values in land and money saved to said Cherokee Indians, said values to be determined by said court. Such court shall further designate the persons, class, or body of persons by whom such payment should equitably be made, and the fund or funds held by the United States out of which the same shall be paid, and enter a decree for the amount so found.

Mr. KEAN. I think from the vote of the Senate this afternoon that amendment had better go out on a point of order.

The VICE-PRESIDENT. The Senator from New Jersey raises a point of order against the amendment which has been read. The Chair sustains the point of order. The next amendment passed over will be stated.

The SECRETARY. The next amendment passed over is on page 52, beginning with line 10.

Mr. CLAPP. That has gone out.

The VICE-PRESIDENT. That went out on a point of order raised by the Senator from Maine [Mr. HALE]. The next amendment passed over will be stated.

The SECRETARY. The next amendment passed over begins on page 70, beginning with line 20. It reads as follows—

Mr. CARTER. It has been read.

Mr. LODGE. That amendment has been read, and I withheld the point of order on it which I will not make. I offer an amendment to the amendment.

The VICE-PRESIDENT. The Senator from Massachusetts proposes an amendment to the amendment, which will be stated by the Secretary.

The SECRETARY. Strike out all after the word "That," in line 15, page 71, down to and including the word "thereto," in line 19, and insert:

The Indians, and the settlers on the surplus land, in the order named, shall have a preference right for one year from the date of the President's proclamation opening the reservation to settlement to appropriate the waters of the reservation, which shall be filed on and appropriated under the laws of the State of Montana by the Commissioner of Indian Affairs on behalf of the Indians taking irrigable allotments and by the settlers under the same law. At the expiration of the one year aforesaid the irrigation system constructed and to be constructed shall be operated under the laws of the State of Montana, and the title to such systems as may be constructed under this act.

Mr. CLARK of Montana. Mr. President, I have no objection to the amendment offered by the Senator from Massachusetts. My colleague will propose an amendment to it.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. CARTER. I offer an amendment to make it conform to the rule of appropriations for reclamation.

The VICE-PRESIDENT. The Senator from Montana proposes an amendment, which will be stated.

The SECRETARY. On page 72, line 9, after the word "aforesaid," the last word in the line, insert:

Provided, That the right to the use of water acquired under the provisions of this act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment passed over was, on page 70, to insert after line 19 the following:

That the Secretary of the Interior is hereby authorized and directed to immediately cause to be surveyed all of the lands embraced within the limits of the Blackfeet Indian Reservation, in the State of Montana.

That so soon as all the lands embraced within the said Blackfeet Indian Reservation shall have been surveyed the Commissioner of Indian Affairs shall cause allotments of the same to be made under the provisions of the allotment laws of the United States to all persons having tribal rights or holding tribal relations and who may rightfully belong on said reservation. That there shall be allotted to each member 40 acres of irrigable land and 280 acres of additional land valuable only for grazing purposes; or, at the option of the allottee, the entire 320 acres may be taken in land valuable only for grazing purposes, respectively, and for constructing irrigating systems to irrigate the aforesaid allotted lands, \$300,000, \$100,000 of which shall be immediately available, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within said reservation: *Provided*, That such irrigation system shall be constructed and completed, and held and operated, and water therefor appropriated under the laws of the State of Montana, and the title thereto, until otherwise provided by law, shall be in the Secretary of the Interior in trust for the said Indians, and he may sue and be sued in matters relating thereto: *And provided further*, That the ditches and canals of such irrigation systems may be used, extended, or enlarged for the purpose of conveying water by any person, association, or corporation under and upon compliance

with the provisions of the laws of the State of Montana: *And provided further*, That when said irrigation systems are in successful operation the cost of operating the same shall be equitably apportioned upon the lands irrigated, and, when the Indians have become self-supporting, to the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work done in their behalf within thirty years, suitable deduction being made for the amounts received from the disposal of the lands within the reservation aforesaid: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved so long as needed and so long as agency, school, or religious institutions are maintained thereon for the benefit of the Indians, not exceeding 280 acres to any one religious society; also such tract or tracts of timber lands as he may deem expedient for the use and benefit of the Indians of said reservation in common; but such reserved lands, or any part thereof, may be disposed of from time to time in such manner as the said Secretary may determine: *Provided*, That there is hereby granted 280 acres each to the Holy Family Mission on Two Medicine Creek and the mission of the Methodist Episcopal Church near Browning, to be selected by the authorities of said missions, respectively, embracing the mission buildings and improvements thereon.

That upon the completion of said allotments the President of the United States shall appoint a commission consisting of three persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians or reserved by the Secretary of the Interior or otherwise disposed of, said commission to be constituted as follows: One commissioner shall be a person holding tribal relations with said Indians, one representative of the Indian Bureau, and one resident citizen of the State of Montana.

That within thirty days after their appointment said commissioners shall meet at some point within the Blackfeet Indian Reservation and organize by the election of one of their number as chairman. Said commission is hereby empowered to select a clerk at a salary of not to exceed \$5 per day.

That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of 40 acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisal said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, the mineral land not to be appraised.

That said commissioners shall be paid a salary of not to exceed \$10 per day each while actually employed in the inspection and classification of said lands; such inspection and classification to be completed within nine months from the date of the organization of said commission.

That when said commission shall have completed the classification and appraisal of all of said lands and the same shall have been approved by the Secretary of the Interior, the lands shall be disposed of under the general provisions of the homestead, mineral, and town-site laws of the United States, except such of said lands as shall have been classified as timber lands, and except such sections 16 and 36 of each township, or any part thereof, for which the State of Montana has not heretofore received indemnity lands under existing laws, which sections, or parts thereof, are hereby granted to the State of Montana for school purposes. And in case either of said sections or parts thereof is lost to the State of Montana by reason of allotment thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to select other lands not occupied or reserved within said reservation, not exceeding two sections in any one township, which selections shall be made prior to the opening of the lands to settlement: *Provided*, That the United States shall pay to the said Indians for the lands in said sections 16 and 36, so granted, or the lands within said reservation selected in lieu thereof, the sum of \$1.25 per acre.

That the lands so classified and appraised shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars and the Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged, but no entry shall be allowed under section 2306 of the Revised Statutes: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by said commission, which in no case shall be less than \$1.25 per acre for agricultural and grazing lands and \$5 per acre for timber lands; but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-fifth of the appraised value in cash at the time of entry and the remainder in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided*, That he shall make his final proofs in accordance with the homestead laws within seven years from date of entry, and that aliens who have declared their intention to become citizens of the United States may become such entrymen, but before making final proof and receiving patent they must receive their full naturalization papers: *And provided further*, That the fees and commissions at the time of commutation or final entry shall be the same as are now provided by law where the price of land is \$1.25 per acre: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, or to make final proof within seven years from date of entry, all rights in and to the land covered by his entry shall at once cease, and any payments theretofore made shall be forfeited and the entry shall be forfeited and canceled: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made.

That if, after the approval of the classification and appraisal, as provided herein, there shall be found lands within the limits of the reservation under irrigation projects deemed practicable under the provisions of the act of Congress approved June 17, 1902, known as the

reclamation act, said lands shall be subject to withdrawal and be disposed of under the provisions of said act, and settlers shall pay, in addition to the cost of construction and maintenance provided therein, the appraised value, as provided in this act, to the proper officers, to be covered into the Treasury of the United States to the credit of the Indians: *Provided, however*, That all lands hereby opened to settlement remaining undisposed of at the end of five years from the taking effect of this act shall be sold to the highest bidder for cash, at not less than \$1.25 per acre, under rules and regulations prescribed by the Secretary of the Interior; and any lands remaining unsold ten years after said lands shall have been opened to entry shall be sold to the highest bidder, for cash, without regard to the minimum limit above stated: *Provided*, That not more than 640 acres of land shall be sold to any one person or company.

That the lands within said reservation not already previously entered, whether classified as agricultural, grazing, timber, or mineral lands, shall be subject to exploration, location, and purchase under the general provisions of the United States mineral and coal land laws, at the prices therein fixed, except that no mineral or coal exploration, location, or purchase shall be permitted upon any lands allotted to an Indian.

That lands classified and returned by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior, under sealed bids to the highest bidder for cash at not less than \$5 per acre, under such rules and regulations as he may prescribe: *Provided*, That the said timber lands shall be sold in tracts not exceeding 40 acres, with preference right of purchase to actual settlers, including Indian allottees residing in the vicinity, at the highest bid.

That after deducting the expenses of the commission of classification, appraisal, and sale of lands, and such other incidental expenses as shall have been necessarily incurred, including the cost of survey of said lands, the balance realized from the proceeds of the sale of the lands in conformity with this act shall be paid into the Treasury of the United States and placed to the credit of said Indian tribe. Not exceeding one-third of the total amount thus deposited in the Treasury, together with one-third of the amount of the principal of all other funds now placed to the credit of or which is due said tribe of Indians from all sources, shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of said Indians, in the construction and maintenance of irrigation ditches, the purchase of stock cattle, horses, and farming implements, and in their education and civilization. The remainder of all funds deposited in the Treasury, realized from such sale of lands herein authorized, together with the remainder of all other funds now placed to the credit of or that shall hereafter become due to said tribe of Indians, shall, upon the date of the approval by the Secretary of the Interior of the allotments of land authorized by this act, be allotted in severalty to the members of the tribe, the persons entitled to share as members in such distribution to be determined by said Secretary: the funds thus allotted and apportioned shall be placed to the credit of such individuals upon the books of the United States Treasury for the benefit of such allottees, their legatees, or heirs. The President may, by Executive order, from time to time order the distribution and payment of such funds or the interest accruing therefrom to such individual members of the tribe as in his judgment would be for the best interests of such individuals to have such distribution made, under such rules and regulations as he may prescribe therefor: *Provided*, That so long as the United States shall hold the funds as trustee for any member of the tribe the Indian beneficiary shall be paid interest thereon annually at the rate of 4 per cent per annum.

That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$65,000, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency and school purposes, at the rate of \$1.25 per acre; also the sum of \$75,000, or so much thereof as may be necessary, to enable the Secretary of the Interior to survey, classify, and appraise the lands of said reservation as provided herein, and also to defray the expense of the appraisal and survey of said town sites, the latter sums to be reimbursable out of the funds arising from the sale of said lands.

That nothing in this act contained shall in any manner bind the United States to purchase any part of the land herein described, except sections 16 and 36, or the equivalent in each township that may be granted to the State of Montana, the reserved tracts hereinbefore mentioned for agency and school purposes, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any part thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received.

That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks, not less than 80 acres of said land at or near the present settlements of Browning and Babb, and each of such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlements. Such town sites shall be surveyed, appraised, and disposed of as provided in section 2381 of the United States Revised Statutes: *Provided*, That any person who, at the date when the appraisers commence their work upon the land, shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter at any time prior to the day fixed for the public sale, and at the appraised value thereof, such lot and any one additional lot of which he or she may also be in possession and upon which he or she may have substantial and permanent improvements: *Provided further*, That before making entry of any such lot or lots the applicant shall make proof to the satisfaction of the register and receiver of the land district in which the land lies of such residence, possession, and ownership of improvements, under such regulations as to time, notice, manner, and character of proof as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: *Provided further*, That in making their appraisal of the lots so surveyed it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry in their regular order with the other unimproved and unoccupied lots: *Provided, however*,

That no lot shall be sold for less than \$10: And provided further, That said lots when surveyed shall approximate 50 by 150 feet in size.

The amendment was agreed to.

The next amendment passed over was, on page 83, after line 9, to insert:

That all claims of whatsoever nature which the Omaha tribe of Indians may have or claim to have against the United States shall be submitted to the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, for determination of the amount due said Omaha tribe from the United States under any treaties or laws of Congress or the unexecuted stipulations of any treaties, or for the misappropriation of any of the funds of said Omaha tribe, or for the failure of the United States to pay said Omaha tribe any money due; and jurisdiction is hereby conferred upon the Court of Claims to hear and determine all claims of said Omaha tribe against the United States and to enter judgment thereon, and to enter judgment in favor of the attorneys of said Indians for proper attorneys' fees, which said award shall be paid by a separate warrant. The Court of Claims shall advance said cause upon the docket. If any question is submitted to said court, it shall settle the rights, both legal and equitable, of both the Omaha tribe of Indians and the United States, notwithstanding lapse of time or statutes of limitations, and the final judgment and satisfaction thereof in said cause shall be deemed a final settlement of all claims of said Omaha Indians against the United States. Such action in the Court of Claims shall be presented by a single petition, subject, however, to amendment, to be filed within one year after the passage of said act, and such action shall make the Omaha tribe of Indians party plaintiff and the United States party defendant, and shall set forth all the facts on which the Omaha tribe of Indians bases its claim for recovery; and the said petition may be verified by the attorney employed by the said Omaha Indians, under the contract filed in the Indian Office on the 4th day of March, 1898, and reported upon to the Secretary of the Interior on the 1st day of May, 1901, upon information and belief as to the existence of such facts, and no other statements or verifications shall be necessary. Official letters, papers, reports, documents, and public records, or certified copies thereof, may be used in evidence: *Provided*, That the Secretary of the Interior shall furnish to the attorney or attorneys of the Omaha tribe of Indians copies of such treaties, papers, correspondence, and records as may be called for by said attorneys of the Omaha tribe of Indians.

Mr. KEAN. That amendment is evidently of the same class of legislation which we have been ruling out all day, and I make the point of order against it.

Mr. CLAPP. I will ask the Senator to withhold his point of order for a moment.

Mr. KEAN. Certainly.

Mr. CLAPP. The question of the Confederated Utes is to come up, and as both of the Senators from Nebraska are temporarily out of the Chamber and we can take this question up later, I suggest that the Senator from New Jersey withhold the point of order.

Mr. KEAN. Certainly, I will withhold the point of order.

Mr. LODGE. What is the amendment referred to?

Mr. KEAN. The amendment in regard to the Confederated Utes.

The VICE-PRESIDENT. The Senator from New Jersey [Mr. KEAN] withholds the point of order, and the amendment will be passed over for the present.

The next amendment passed over was, on page 98, after line 4, to insert:

That there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$215,239, the same being the difference between 32½ cents per acre heretofore paid to the Mexican Kickapoo Indians in the Territory of Oklahoma and the amount realized by the United States for their surplus land in Oklahoma, the said sum to be paid by the Secretary of the Treasury to Pah ke tah and Martin J. Bentley, the authorized representatives of said Indians, through any national bank by them designated; the said sum to be immediately available and the indorsements of the warrant issued in payment thereof to be deemed to be a receipt in full for all claims of every kind whatsoever of the said Mexican Kickapoo Indians against the United States, and said payment shall be considered and deemed a final settlement of all claims of every kind whatsoever of said Indians against the United States.

That the Attorney-General of the United States be, and he hereby is, authorized and directed to immediately investigate any and all conveyances purporting to have been executed and acknowledged in the Republic of Mexico or elsewhere, of lands situated in Oklahoma and heretofore allotted to Mexican Kickapoo Indians now nonresident in the United States, and if the said conveyances or any of them appear to have been procured by fraud or fraudulently executed, he shall, by his assistant specially employed, appear and defray the costs of proceedings in the proper courts on behalf of said Indians and their trustees to cancel and to set aside said conveyances and to clear the title of said Indians and their trustees to said land from any and all cloud thereon, the result of such fraudulent conveyances. He is further directed to prosecute in the proper courts any and all parties to said frauds, and he is authorized to employ for said purposes some suitable attorney as his assistant who has the confidence of said Indians. For said purposes and the payment of costs in suits to set aside said fraudulent conveyances there be, and hereby is, appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$25,000, the same to be immediately available.

Mr. ALDRICH. That is a very complicated provision, and clearly subject to the point of order. It appropriates \$25,000 out of the Treasury, an appropriation for which there is no estimate. I make the point of order against it, in order to save the time of the Senate.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. SPOONER. There is one provision of the amendment which, if I am correctly informed, ought to be permitted to remain in the bill. I have read the report from one of the American consuls in Mexico, an official, which showed that there had been very bad treatment of the Indians over there by certain parties claiming to represent the United States Government. That is a matter which ought to be looked into. I have been told that some of those Indians were induced to sign, without knowing anything about what they were signing, a large number of deeds, which have been recorded, to land in this country belonging to the Indians.

Mr. CLARK of Wyoming. I will say to the Senator that a large number of those which appear to be signed it is claimed were not signed.

Mr. SPOONER. Yes; I say a large number of deeds have been recorded which appear to have been signed by the Indians which it is claimed were not signed at all, and I think there ought to be an investigation of it.

Mr. LONG. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. SPOONER. Certainly.

Mr. LONG. If I am not mistaken, the Senate recently authorized the Committee on Indian Affairs to investigate these transactions, giving it power to send for persons and papers.

Mr. SPOONER. I think that is better, Mr. President.

Mr. CLAPP. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Minnesota?

Mr. SPOONER. Certainly.

Mr. CLAPP. One moment, or we will be getting confused here. The Senate passed a resolution authorizing the Committee on Indian Affairs to investigate this matter generally, but the committee can not bring any suit to set aside these alleged fraudulent conveyances. This provision applies more particularly to alleged fraudulent conveyances; and, whatever the Senate does with the appropriation, I would suggest the propriety of retaining that part of the amendment which authorizes the Attorney-General to investigate as to the validity of those conveyances and bring suits to set them aside if he finds them to be fraudulent.

Mr. LONG. I ask the Senator from Minnesota why we should have two investigations proceeding at the same time? Why not defer this investigation until the investigation to be made by the Committee on Indian Affairs has been made?

Mr. SPOONER. If there is to be an investigation with reference to bringing suit to set aside fraudulent deeds constituting a doubt as to title, or anything of that kind, the investigation ought to be made by the Department that will be charged with the duty of bringing suit and that will have the preparation of the case for trial. It would be very much better that that particular matter should be investigated by the Department of Justice.

Mr. LONG. It would certainly be better if it is to bring suits, but the Committee on Indian Affairs should make and complete its investigation before this is ordered. That committee has been authorized to investigate the affairs of this tribe of Indians with the United States—

Mr. SPOONER. That is a different thing.

Mr. LONG. And I think that investigation should be completed before this is begun.

Mr. SPOONER. I think it is all right for the Committee on Indian Affairs to investigate generally the relation of these Indians to the United States; but as to the particular matter concerning suits that will have to be brought by the Government to set aside fraudulent deeds, I think the Department of Justice is the proper Department to make that investigation.

Mr. CLAPP. I had not understood that there had been any investigation particularly by the committee in relation to the subject which might touch upon the matter of these deeds; but my understanding was that that investigation was limited to the general relation of the Government to these Indians, and not to these transactions in Mexico, whereas this amendment is designed to clothe the Department of Justice with authority to investigate as to the validity of these deeds, and I really think the Senate will make a mistake if it strikes out the provision.

Mr. ALDRICH. Mr. President, I am not able to segregate this matter from the other matters which are clearly objectionable in this bill. If anybody else is able to do so, I should be very glad to listen to his suggestion.

The VICE-PRESIDENT. The Chair has sustained the point of order against the amendment.

Mr. SPOONER. Do I understand the point of order is sustained?

The VICE-PRESIDENT. The point of order is sustained.

Mr. CLAPP. I hope the Chair will reconsider his decision.

Mr. SPOONER. Is it too late for the Senator from Rhode Island to withdraw his point of order?

Mr. ALDRICH. Decidedly.

Mr. CLAPP. Then I offer as an amendment the portion of the bill beginning on line 23, on page 98, and continuing down to and including line 19, on page 99. That will separate the two items.

Mr. LONG. That includes the appropriation on lines 18 and 19, to which the Senator from Rhode Island [Mr. ALDRICH] objected.

Mr. TILLMAN. That is the appropriation of \$25,000 for the prosecution of the suit; and on page 98, in line 7, there is an appropriation of \$215,239.

Mr. CLAPP. I beg the Senator's pardon. My amendment does not include the appropriation to which I understood the Senator from Rhode Island to object, which was the appropriation of \$215,239.

Mr. ALDRICH. My objection was to the appropriation of \$25,000 out of the Treasury of the United States that was not estimated for. I think this matter ought to go into a separate bill. We certainly can not, I will say to the Senator from Wisconsin, undertake by this bill to redress all the grievances that exist in the United States or in Mexico; or, if we do, we certainly shall depart very far from what should be the scope of a general appropriation bill.

Mr. SPOONER. But we ought to investigate grievances which are brought about by people representing the United States Government.

Mr. ALDRICH. At the proper place and in the proper way, certainly; but this is not the place or the way to do it.

Mr. SPOONER. Did the Senator ever see an estimate for an item in an appropriation bill for such a thing as this?

Mr. ALDRICH. The law provides and the rules of the Senate provide that no amendment shall be made to a general appropriation bill unless it is estimated for through the regular channels.

Mr. SPOONER. That may be true, but it is done all the time.

Mr. CLAPP. If the Senator from Rhode Island will withdraw his point of order—

The VICE-PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Minnesota?

Mr. ALDRICH. I do not withdraw my point of order with reference to that appropriation.

Mr. CLAPP. Then I will renew the motion and offer the amendment to consist of the language found on page 98, commencing with line 23 on page 98 and extending to and including the word "Indians," in line 15, page 99. That will exclude the appropriation of \$25,000.

The VICE-PRESIDENT. The Secretary will state the amendment proposed by the Senator from Minnesota.

The SECRETARY. It is proposed to leave in the bill the language found in the amendment beginning in line 23, page 98, down to and including the words "said Indians," in line 15, page 99.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. ALDRICH. Let it be read for the information of the Senate.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read the proposed amendment, as follows:

That the Attorney-General of the United States be, and he hereby is, authorized and directed to immediately investigate any and all conveyances purporting to have been executed and acknowledged in the Republic of Mexico, or elsewhere, of lands situated in Oklahoma and heretofore allotted to Mexican Kickapoo Indians now nonresident in the United States, and if the said conveyances or any of them appear to have been procured by fraud or fraudulently executed he shall, by his assistant specially employed, appear and defray the costs of proceedings in the proper courts on behalf of said Indians and their trustees to cancel and to set aside said conveyances and to clear the title of said Indians and their trustees to said land from any and all cloud thereon, the result of such fraudulent conveyances. He is further directed to prosecute in the proper courts any and all parties to said frauds, and he is authorized to employ for said purposes some suitable attorney as his assistant who has the confidence of said Indians.

Mr. SPOONER. I move to strike out, after the word "Attorney-General," the words "of the United States."

The VICE-PRESIDENT. The Senator from Wisconsin proposes an amendment to the amendment offered by the Senator from Minnesota, which will be stated.

The SECRETARY. On page 98, line 23, after the word "Attorney-General," it is proposed to strike out the words "of the United States."

The amendment to the amendment was agreed to,

Mr. LONG. I ask the Senator from Minnesota what is the object of lines 13, 14, and 15, which direct the Attorney-General to employ an assistant with certain peculiar qualifications?

Mr. CLAPP. That is a matter I do not care to discuss. I think if the Senator were as familiar with this as some of us perhaps he would not raise the point. But all after the word "conveyances," in line 11, can be stricken out, and I make that motion.

The VICE-PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to strike out all after the word "conveyances," in line 11, page 99; so that the amendment will begin in line 23, on page 98, and end with the word "conveyances," line 11, page 99.

The VICE-PRESIDENT. The question is on agreeing to the amendment as amended.

Mr. CLARK of Wyoming. I should like to ask the Senator if he expects an investigation can be made in matters like this by the Attorney-General without an appropriation?

Mr. CLAPP. When we get to the deficiency bill there will be no objection, if the Senate sees fit, to make an appropriation for the purpose.

Mr. CLARK of Wyoming. While I am very anxious for this provision to go in the bill, I make the prediction right now that the Attorney-General will do no investigating under it.

Mr. CLAPP. That may be, but we will have discharged our duty to these people in getting what we could for them. That is my only answer to that.

The VICE-PRESIDENT. The question is on agreeing to the amendment as amended.

Mr. LONG. I make the point of order against this amendment that it is general legislation, that it adds a new item of appropriation not estimated for, and that it is not made to carry out the provisions of some existing law.

Mr. CLAPP. I should like to ask the Senator, in the present emasculated condition of the amendment, what appropriation it makes?

Mr. LONG. It is to be made the basis of an appropriation, as the Senator himself has just stated. If the proposed amendment is enacted into law, the appropriation is to be made in the deficiency appropriation bill.

Mr. CLAPP. I submit, Mr. President, that it would hardly be sufficient ground for a point of order that an appropriation may be made in another appropriation bill.

The VICE-PRESIDENT. The Chair is of the opinion that the amendment is in contravention of the rule, and sustains the point of order. This completes the bill with the exception of the amendment passed over on page 83.

Mr. LODGE. Mr. President, what became of the amendment beginning in line 17, on page 110, from which, at the request of the Senator from North Dakota, I withheld the point of order. He says he does not desire me to withhold it any longer.

The VICE-PRESIDENT. That amendment went out on a point of order.

Mr. LODGE. I made the point of order and the Chair sustained it, but the Senator from North Dakota asked that I withhold it. He has just advised me that he has no desire that it should be withheld any longer, and therefore, of course, the ruling of the Chair stands, and the amendment goes out.

The VICE-PRESIDENT. The point of order is sustained.

Mr. CLAPP. Mr. President, in the amendment already agreed to, on page 118, line 10, the designation "Secretary of the Interior" appears. It should be "Secretary of the Treasury." I move to reconsider the vote by which that amendment was agreed to and then to amend it by substituting the word "Treasury" for the word "Interior."

The VICE-PRESIDENT. The Senator from Minnesota moves that the vote by which the amendment beginning in line 10, page 118, was agreed to be reconsidered. In the absence of objection, the motion is agreed to. The Senator from Minnesota proposes an amendment to the amendment, which will be stated.

The SECRETARY. On page 118, in the amendment beginning in line 10, it is proposed to strike out the word "Interior" and insert the word "Treasury;" so as to read "That the Secretary of the Treasury," etc.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CLAPP. Mr. President, yesterday I offered an amendment on page 68, relating to restrictions which were removed last year from the mixed bloods of the White Earth Reservation, Minn. On the third line of the amendment as offered—I can only refer to it as the line of the amendment—the word "now" appears. It should be "heretofore." I move to strike out the word "now" and substitute the word "heretofore."

The VICE-PRESIDENT. The amendment will be regarded as open to amendment, and the amendment to the amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. In the amendment already agreed to on page 69, line 11 of the bill, after the word "Minnesota," it is proposed to strike out the word "now" and insert the word "heretofore."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CLAPP. I call attention now to the amendment on page 83, which we passed over a few moments ago in the absence of the Senator from Nebraska [Mr. BURKETT], who is now here.

The VICE-PRESIDENT. The question is on agreeing to the amendment on page 83.

Mr. LODGE. The point of order was made on that.

Mr. KEAN. I made a point of order on that amendment, but withheld it for the Senator from Nebraska, who wishes to make some explanation in regard to it.

Mr. LODGE. I should like to ask what has become of the Colorado amendment, which I suppose will provoke considerable debate. It will be ruled out, but we shall have to discuss it just the same.

Mr. PATTERSON. I am not so certain about it being ruled out. It is quite an assumption on the part of the Senator from Massachusetts to say so.

Mr. LODGE. Under the rulings made to-day by the Senate itself, it must go out. It is out of order in any event.

Mr. PATTERSON. My colleague [Mr. TELLER] is very clearly of the impression that it is not subject to the point of order.

Mr. LODGE. If we have got to debate it on the merits, it will take some time.

Mr. PATTERSON. I can not—

Mr. LODGE. I make that prediction now. I have looked into it thoroughly, and I can assure the Senator that if a point of order is not sustained there will be very thorough debate upon it before it passes.

Mr. CLAPP. In view of the cheerful information given by the Senator from Massachusetts [Mr. LODGE], and asking that we resume the consideration of this bill at the close of the routine business to-morrow morning, I move that the Senate adjourn.

Mr. PENROSE. I ask the Senator to withhold his motion. We ought to have a short executive session to dispose of a large number of nominations.

Mr. CLAPP. Very well; I withdraw my motion.

#### EXECUTIVE SESSION.

Mr. PENROSE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened, and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Friday, February 8, 1907, at 12 o'clock meridian.

#### NOMINATIONS.

*Executive nominations received by the Senate February 7, 1907.*

##### UNITED STATES ATTORNEY.

John J. Boyce, of California, to be United States attorney for Division No. 1, district of Alaska. A reappointment, his term expiring February 17, 1907.

##### UNITED STATES MARSHAL.

Harry A. Wiel, of Wisconsin, to be United States marshal for the eastern district of Wisconsin, in the place of Thomas B. Reid, whose term has expired.

##### BRIGADIER-GENERAL ON THE RETIRED LIST OF THE ARMY.

Under the provisions of an act of Congress approved April 23, 1904, I nominate Col. George E. Pond, assistant quartermaster-general, to be placed on the retired list of the Army, with the rank of brigadier-general, from the date on which he shall be retired from active service.

##### PROMOTIONS IN THE ARMY—CAVALRY ARM.

##### To be captains.

First Lieut. John McClintock, Ninth Cavalry, from October 22, 1906, vice Dallam, Fifth Cavalry, detailed as paymaster.

First Lieut. Paul T. Hayne, jr., Fourteenth Cavalry, from October 28, 1906, vice Dugan, Twelfth Cavalry, promoted.

First Lieut. Fred E. Buchan, Third Cavalry, from January 19, 1907, vice Fuller, Ninth Cavalry, retired from active service.

First Lieut. Edward A. Sturges, Fifth Cavalry, from January 21, 1907, vice Lindsley, First Cavalry, detailed as quartermaster.

##### To be first lieutenants.

Second Lieut. Irvin L. Hunsaker, Third Cavalry, from October 22, 1906, vice McClintock, Ninth Cavalry, promoted.

Second Lieut. Clifton R. Norton, Fifteenth Cavalry, from October 28, 1906, vice Hayne, Fourteenth Cavalry, promoted.

Second Lieut. Eugene J. Ely, Fifteenth Cavalry, from January 21, 1907, vice Sturges, Fifth Cavalry, promoted.

##### POSTMASTERS.

##### CALIFORNIA.

Thomas E. Byrnes to be postmaster at San Mateo, in the county of San Mateo and State of California, in place of Thomas E. Byrnes. Incumbent's commission expires February 9, 1907.

Felix L. Grauss to be postmaster at Calistoga, in the county of Napa and State of California, in place of Felix L. Grauss. Incumbent's commission expires February 9, 1907.

Eri Huggins to be postmaster at Fort Bragg, in the county of Mendocino and State of California, in place of Eri Huggins. Incumbent's commission expires February 26, 1907.

M. M. Seoon to be postmaster at Rocklin, in the county of Placer and State of California, in place of John H. Gregory. Incumbent's commission expired January 22, 1907.

Renaldo E. Taylor to be postmaster at Gridley, in the county of Butte and State of California, in place of Renaldo E. Taylor. Incumbent's commission expired December 10, 1906.

William L. Williams to be postmaster at Madera, in the county of Madera and State of California, in place of William L. Williams. Incumbent's commission expires February 16, 1907.

##### COLORADO.

Maude E. McLean to be postmaster at Breckenridge, in the county of Summit and State of Colorado, in place of Maude E. McLean. Incumbent's commission expired January 22, 1907.

##### IDAHO.

C. D. McEachron to be postmaster at Lewiston, in the county of Nez Perce and State of Idaho, in place of John L. Chapman. Incumbent's commission expires March 2, 1907.

##### ILLINOIS.

Edward E. Gott to be postmaster at Norris City, in the county of White and State of Illinois. Office became Presidential January 1, 1907.

Clark J. McManis to be postmaster at Princeton, in the county of Bureau and State of Illinois, in place of Clark J. McManis. Incumbent's commission expires February 9, 1907.

Frank G. Robinson to be postmaster at El Paso, in the county of Woodford and State of Illinois, in place of Silas D. Patton. Incumbent's commission expired January 23, 1907.

Otis E. Stumpf to be postmaster at Findlay, in the county of Shelby and State of Illinois. Office became Presidential January 1, 1907.

Thomas H. White to be postmaster at National Stock Yards, in the county of St. Clair and State of Illinois, in place of Thomas H. White. Incumbent's commission expired January 7, 1907.

##### INDIANA.

Joseph C. Andrew to be postmaster at Redkey, in the county of Jay and State of Indiana, in place of John W. Hill. Incumbent's commission expired February 3, 1907.

Cash M. Graham to be postmaster at South Whitley, in the county of Whitley and State of Indiana, in place of Cash M. Graham. Incumbent's commission expired December 20, 1906.

##### IOWA.

Louis H. Schulte to be postmaster at Remsen, in the county of Plymouth and State of Iowa, in place of Moses D. Mosier, removed.

Eunice A. Underhill to be postmaster at Osceola, in the county of Osceola and State of Iowa. Office became Presidential October 1, 1906.

##### KENTUCKY.

Marcus L. Kincheloe to be postmaster at Hardinsburg, in the county of Breckinridge and State of Kentucky. Office became Presidential January 1, 1907.

##### MARYLAND.

George C. Riffin to be postmaster at Crisfield, in the county of Somerset and State of Maryland, in place of William R. Reese, removed.

##### MASSACHUSETTS.

Stanley B. Dearborn to be postmaster at Wakefield, in the county of Middlesex and State of Massachusetts, in place of Stanley B. Dearborn. Incumbent's commission expires February 13, 1907.

Harry D. Hunt to be postmaster at North Attleboro, in the county of Bristol and State of Massachusetts, in place of Harry D. Hunt. Incumbent's commission expires February 13, 1907.

Samuel L. Wheaton to be postmaster at Manchester, in the county of Essex and State of Massachusetts, in place of Samuel L. Wheaton. Incumbent's commission expired February 4, 1907.

## MICHIGAN.

Earl B. Hammond to be postmaster at Vermontville, in the county of Eaton and State of Michigan, in place of Earl B. Hammond. Incumbent's commission expires February 11, 1907.

Newton E. Tower to be postmaster at Union City, in the county of Branch and State of Michigan, in place of Newton E. Tower. Incumbent's commission expired February 2, 1907.

## MINNESOTA.

Andrew J. Davis to be postmaster at South St. Paul, in the county of Dakota and State of Minnesota, in place of Edgar F. Gould. Incumbent's commission expired December 20, 1906.

## MISSOURI.

Troy L. Crane to be postmaster at Lees Summit, in the county of Jackson and State of Missouri, in place of Troy L. Crane. Incumbent's commission expires February 24, 1907.

## MONTANA.

John C. Sorenson to be postmaster at Glendive, in the county of Dawson and State of Montana, in place of John R. Stout, resigned.

## NEW YORK.

John R. Costello to be postmaster at Chittenango, in the county of Madison and State of New York, in place of W. Scott Siver. Incumbent's commission expired February 4, 1907.

George H. Keeler to be postmaster at Hammondsport, in the county of Steuben and State of New York, in place of George H. Keeler. Incumbent's commission expired February 4, 1907.

Charles E. Morgan to be postmaster at West Winfield, in the county of Herkimer and State of New York, in place of Charles E. Morgan. Incumbent's commission expired January 22, 1907.

William J. H. Parker to be postmaster at Moravia, in the county of Cayuga and State of New York, in place of William J. H. Parker. Incumbent's commission expired February 4, 1907.

## NORTH CAROLINA.

Daniel J. Currie to be postmaster at Raeford, in the county of Cumberland and State of North Carolina. Office became Presidential January 1, 1907.

## NORTH DAKOTA.

Duncan C. McLeod to be postmaster at Crary, in the county of Ramsey and State of North Dakota. Office became Presidential January 1, 1907.

## OHIO.

J. A. Donnelly to be postmaster at New Lexington, in the county of Perry and State of Ohio, in place of John A. Birkimer. Incumbent's commission expired January 26, 1907.

Homer S. Kent to be postmaster at Chagrin Falls, in the county of Cuyahoga and State of Ohio, in place of Homer S. Kent. Incumbent's commission expires February 19, 1907.

## PENNSYLVANIA.

William E. Champaign to be postmaster at Wellsboro, in the county of Tioga and State of Pennsylvania, in place of Arthur M. Roy. Incumbent's commission expired January 31, 1907.

William T. Dantz to be postmaster at Westgrove, in the county of Chester and State of Pennsylvania, in place of William T. Dantz. Incumbent's commission expires February 23, 1907.

John B. Griffiths to be postmaster at Jermyn, in the county of Lackawanna and State of Pennsylvania, in place of John B. Griffiths. Incumbent's commission expires February 11, 1907.

Frederick T. Gelder to be postmaster at Forest City, in the county of Susquehanna and State of Pennsylvania, in place of Truman C. Manzer, removed.

Ferdinand K. Hill to be postmaster at Sunbury, in the county of Northumberland and State of Pennsylvania, in place of Ferdinand K. Hill. Incumbent's commission expired February 7, 1906.

Robert E. Hopkins to be postmaster at Milton, in the county of Northumberland and State of Pennsylvania, in place of Jacob G. Geltz, deceased.

Louis F. Hoyt to be postmaster at Athens, in the county of Bradford and State of Pennsylvania, in place of Frank G. Sairs. Incumbent's commission expires March 2, 1907.

Frank H. McCully to be postmaster at Osceola Mills, in the county of Clearfield and State of Pennsylvania, in place of Frank H. McCully. Incumbent's commission expires February 26, 1907.

## WISCONSIN.

George H. Dodge to be postmaster at Arcadia, in the county of Trempealeau and State of Wisconsin, in place of George H. Dodge. Incumbent's commission expired February 4, 1907.

Christ Legreid to be postmaster at Cambridge, in the county of Dane and State of Wisconsin. Office became Presidential October 1, 1905.

Frank H. Marshall to be postmaster at Kilbourn, in the county of Columbia and State of Wisconsin, in place of Frank H. Marshall. Incumbent's commission expires February 26, 1907.

Albert H. Tarnutzer to be postmaster at Prairie du Sac, in the county of Sauk and State of Wisconsin. Office became Presidential January 1, 1907.

Earl S. Welch to be postmaster at Eau Claire, in the county of Eau Claire and State of Wisconsin, in place of George W. Smith. Incumbent's commission expired February 4, 1907.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate February 7, 1907.*

## POSTMASTERS.

## CALIFORNIA.

Orlando J. Lincoln to be postmaster at Santa Cruz, in the county of Santa Cruz and State of California.

## COLORADO.

Moses E. Lewis to be postmaster at Florence, in the county of Fremont and State of Colorado.

William L. Williams to be postmaster at Fowler, in the county of Otero and State of Colorado.

## CONNECTICUT.

Frank G. Letters to be postmaster at Putnam, in the county of Windham and State of Connecticut.

## ILLINOIS.

F. M. Herzog to be postmaster at Blandinsville, in the county of McDonough and State of Illinois.

## INDIANA.

Samuel A. Connelly to be postmaster at Upland, in the county of Grant and State of Indiana.

Morris A. Jones to be postmaster at Brook, in the county of Newton and State of Indiana.

J. F. Martin to be postmaster at Bourbon, in the county of Marshall and State of Indiana.

Calvin Myers to be postmaster at Francesville, in the county of Pulaski and State of Indiana.

## KENTUCKY.

William M. Anderson to be postmaster at Nicholasville, in the county of Jessamine and State of Kentucky.

Virgil L. Bacon to be postmaster at Madisonville, in the county of Hopkins and State of Kentucky.

Albert Browning to be postmaster at Providence, in the county of Webster and State of Kentucky.

Joseph W. Demombrom to be postmaster at Horse Cave, in the county of Hart and State of Kentucky.

James H. Ford to be postmaster at Benton, in the county of Marshall and State of Kentucky.

Edwin B. Linney to be postmaster at Danville, in the county of Boyle and State of Kentucky.

James P. Spilman to be postmaster at Harrodsburg, in the county of Mercer and State of Kentucky.

Jesse D. Tuggle to be postmaster at Barbourville (late Barbourville), in the county of Knox and State of Kentucky.

Thomas L. Walker to be postmaster at Lexington, in the county of Fayette and State of Kentucky.

## LOUISIANA.

George W. Whitworth to be postmaster at Jeanerette, in the parish of Iberia and State of Louisiana.

## MAINE.

Charles H. Hooper to be postmaster at Castine, in the county of Hancock and State of Maine.

Charles H. White to be postmaster at Orono, in the county of Penobscot and State of Maine.

## MASSACHUSETTS.

Kate E. Hazen to be postmaster at Shirley, in the county of Middlesex and State of Massachusetts.

Harry D. Hunt to be postmaster at North Attleboro, in the county of Bristol and State of Massachusetts.

## MICHIGAN.

Thomas E. Mitchell to be postmaster at Trimountain, in the county of Houghton and State of Michigan.

## MINNESOTA.

Isaac I. Barga to be postmaster at Mountain Lake, in the county of Cottonwood and State of Minnesota.

James C. Poole to be postmaster at Eveleth, in the county of St. Louis and State of Minnesota.

## MONTANA.

William E. Baggs to be postmaster at Stevensville, in the county of Ravalli and State of Montana.

## NEVADA.

Charles F. Littrell to be postmaster at Austin, in the county of Lander and State of Nevada.

## NEW YORK.

Judson Field to be postmaster at Canastota, in the county of Madison and State of New York.

James E. Peck to be postmaster at Jordan, in the county of Onondaga and State of New York.

Jonas M. Preston to be postmaster at Delhi, in the county of Delaware and State of New York.

## OHIO.

Edward J. Lewis to be postmaster at Girard, in the county of Trumbull and State of Ohio.

John A. Lowrie to be postmaster at Seville, in the county of Medina and State of Ohio.

John C. Rock to be postmaster at West Liberty, in the county of Logan and State of Ohio.

## OKLAHOMA.

Marshall A. Younkman to be postmaster at McLoud, in the county of Pottawatomie and Territory of Oklahoma.

## OREGON.

John M. Parry to be postmaster at Moro, in the county of Sherman and State of Oregon.

Andreas L. Sproul to be postmaster at Ontario, in the county of Malheur and State of Oregon.

## PENNSYLVANIA.

Louis F. Hoyt to be postmaster at Athens, in the county of Bradford and State of Pennsylvania.

## SOUTH CAROLINA.

Dudley P. McLaurin to be postmaster at Clio, in the county of Marlboro and State of South Carolina.

## TEXAS.

J. Allen Myers to be postmaster at Bryan, in the county of Brazos and State of Texas.

## VERMONT.

Ezra H. Allen to be postmaster at Fowler, in the county of Rutland and State of Vermont.

## WASHINGTON.

Nelson J. Bostwick to be postmaster at Hillyard, in the county of Spokane and State of Washington.

## WISCONSIN.

Henry E. Blair to be postmaster at Waukesha, in the county of Waukesha and State of Wisconsin.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 7, 1907.

The House was called to order at 12 m. by Mr. DALZELL, who directed the Clerk to read the following communication:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,  
February 7, 1907.

I hereby designate Hon. JOHN DALZELL, of Pennsylvania, to act as Speaker pro tempore to-day.

J. G. CANNON.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

## ADDITIONAL FOLDERS.

Mr. CASSEL. Mr. Speaker, I desire to present the following privileged report from the Committee on Accounts, and move its adoption.

The Clerk read as follows:

House resolution No. 675.

Resolved, That the Doorkeeper of the House be, and is hereby, authorized to employ five additional folders in the folding room, for the purpose of folding speeches and pamphlets, at a rate not exceeding \$1 per thousand, to be paid out of the contingent fund of the House, during the present session of Congress.

The question was taken; and the resolution was agreed to.

## DISPOSITION OF ACCUMULATED FILES.

Mr. CASSEL. Also the following.

The Clerk read as follows:

House resolution No. 615.

Resolved, That the Clerk of the House is hereby authorized to expend, with the approval of the Committee on Accounts, not exceeding \$1,500 to further carry out the purpose of House resolution adopted February 9, 1906, and the provisions of the act of June 6, 1900, relating to the proper disposition of the accumulated files of the House.

The question was taken; and the resolution was agreed to.

## STENOGRAPHER TO COMMITTEE ON ACCOUNTS.

Mr. CASSEL. Also the following.

The Clerk read as follows:

House resolution No. 800.

Resolved, That there shall be paid, out of the contingent fund of the House, for the services of a stenographer to the Committee on Accounts during the remainder of the session, the sum of \$100.

The question was taken; and the resolution was agreed to.

## PAY OF ASSISTANT CLERK TO COMMITTEE ON PENSIONS.

Mr. CASSEL, from the Committee on Accounts, reported in lieu of House resolution 666 the following resolution:

The Clerk read as follows:

House resolution No. 821.

Resolved, That the assistant clerk of the Committee on Pensions, whose appointment was authorized by resolution of the House adopted January 25, 1906, is hereby continued, to be paid out of the contingent fund of the House until otherwise provided for by law, at the rate of \$1,600 per annum.

The question was taken; and the substitute resolution was agreed to.

On motion of Mr. CASSEL, a motion to reconsider the several votes by which the various resolutions were agreed to was laid on the table.

## RIVER AND HARBOR APPROPRIATION BILL.

Mr. BURTON of Ohio. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 24991, the river and harbor bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. CURRIER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 24991, the river and harbor appropriation bill.

Mr. BURTON of Ohio. Mr. Chairman, I would like to know if any gentleman from Missouri or elsewhere would like to be heard further in support of the pending amendment.

Mr. ELLIS. I should like to be heard.

Mr. BURTON of Ohio. How much time does the gentleman desire?

Mr. ELLIS. In view of the fact that I have not occupied any time during the general debate on the bill, I should like to have fifteen minutes.

Mr. BURTON of Ohio. I make the request to the committee that the gentleman from Missouri may have fifteen minutes.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from Missouri may have fifteen minutes.

Mr. BURTON of Ohio. Pending that, and before the gentleman begins, I desire to know if anyone else desires to be heard?

Mr. BARTHOLDT. I should like to suggest, inasmuch as my time was partly taken up by questions asked by the gentleman from Ohio, who himself kindly had my time extended, it may become necessary for me to say a word or two in reply; and I should like to have an opportunity at least to answer them, if I can, if the time can be granted.

Mr. BURTON of Ohio. I will try to give the gentleman an opportunity. What time does the gentleman desire?

Mr. BARTHOLDT. I suppose about five minutes.

Mr. BURTON of Ohio. I move that debate upon the paragraph and all amendment thereto be closed in thirty-five minutes.

The CHAIRMAN. The gentleman from Ohio moves that all debate upon the paragraph and amendment be closed in thirty-five minutes.

The question was taken; and the motion was agreed to.

The CHAIRMAN. The gentleman from Missouri is recognized for fifteen minutes.

Mr. ELLIS. Mr. Chairman, I have so far refrained from any participation in the debate on this bill. As a member of the committee reporting the measure I have been under some sense of embarrassment. The storm center of opposition to the bill happens to be in Missouri. As a rule nothing is more discreet than silence, and yet I have feared a little lest if I should fail to speak at all some might misunderstand me, might even consider me recreant to the interests of the great Mississippi Valley. So upon reflection this morning I have decided that it is due to myself that my attitude in relation to these projects which have been so assertive in this discussion should be plainly defined.

One does not have to be a member of the Rivers and Harbors Committee of this House very long to learn that that committee can not always do what it would. At best it is subject to limi-